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# THE SOUTHWESTERN POLITICAL SCIENCE QUARTERLY

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## THE STATES AS AGENTS OF THE NATION.<sup>1</sup>

A. N. HOLCOMBE

*Harvard University*

Major General Enoch H. Crowder, Provost Marshal General of the United States during the World War, in his admirable volume, *The Spirit of Selective Service*, relates how the federal military authorities came to make use of the States as agents of the Nation for the recruiting of the national army. They had all but decided that men within the draft-age should register at the post-offices in their respective places of residence. The post-masters are generally well acquainted with the people of their districts. Throughout the rural districts, indeed, the post-office is often the principal social center, and in the urban districts, though the personal relations between postmaster and public are less intimate than in the country, there are well-established and adequate facilities for the prompt and complete registration of the adult male population. Then a Congressman suggested that the spirit of selective service would be more effectively fostered if the registration took place at the polls instead of the post-offices. Men go to the polls in a loftier state of mind than that in which they go for their mail.

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<sup>1</sup>Paper presented at the Second Annual Meeting of the Southwestern Political Science Association, March 24, 1921.

Patriotic sentiments are more closely associated with the ballot. There had been grave differences of opinion concerning the necessity of war, and it was hoped that men within the draft-age would better appreciate the dignity of registration, if the act were performed in the place where the voice of the people speaks in the fullness of its majesty. So the post-office was rejected as the birth-place of the national army.

But the polling-places are under State, not federal, control. The choice of the polls, therefore, as the scene of the first step in the recruitment of the national army meant the choice of the States as the national recruiting agents. It meant that the local and district draft boards would be composed of men appointed by the State authorities and that the whole process of selection would be in the hands of men responsible primarily to the States rather than to the federal government. The boldness of this decision has been forgotten in the success to which it led. But success was by no means assured in advance. The general practice of the federal government has been to depend on agents who are subject immediately and directly to federal control. The federal taxes are collected not by State but by federal collectors of customs and of internal revenue. The federal police power is entrusted to the United States marshals and to the host of intelligence officers, secret service men, and agents of Bureaus of Investigation in the direct employ of the United States. The great constructive services of the federal government, from farm loans to weather reports, are conducted mainly by federal officers in complete independence of the authority and influence of the States. The decision to confide the administration of the Selective Service Act so largely to officers of the States was an extraordinary exception to the established policy of the federal government.

The complete separation of federal and state administration was not contemplated by the founders of the "more perfect Union" of 1787. James Madison, the foremost architect of the federal Constitution, arguing in *The Federalist* that the new form of government would not be dangerous

to the State governments, advanced as one of his reasons the proposition that the State governments were to be regarded as constituent and essential parts of the federal government, although the latter would be in no wise essential to the organization or operation of the former. The number of individuals employed under the Constitution of the United States, he believed, would be much smaller than the number employed under the particular States. To illustrate his thought, he cited the case of the collection of revenue. "If the federal government is to have collectors of revenue," he wrote, "the State governments will have theirs also . . . Those of the former will be principally on the sea-coast, and not very numerous, whilst those of the latter will be spread over the face of the country, and will be very numerous. . . It is true that the Confederacy is to possess, and may exercise, the power of collecting internal as well as external taxes throughout the States; but it is probable that this power will not be resorted to, except for supplemental purposes of revenue; and that an option will then be given to the States to supply their quotas by previous collections of their own; and that the eventual collection under the immediate authority of the Union will generally be made by the officers, and according to the rules, appointed by the several States. . ." So far was the wisest political scientist of his time from foreseeing the present development of federal fiscal machinery.

The most significant feature of Madison's argument is not his pardonable failure to anticipate correctly the future in America, but his easy assumption that the federal government would utilize the services of State officers in the execution of federal powers. Nor was he alone among the more eminent framers of the federal Constitution in holding this opinion. In the federal convention itself the younger Pinckney voiced the same idea when he declared that the States would be "the instruments upon which the Union must frequently depend for the support and execution of its power." Hamilton expressed a like opinion when he wrote in *The Federalist* that the officers of the States would be "rendered auxiliary" to the enforcement of the laws of the Union.

Doubtless most of the Fathers were confirmed in this way of thinking by the provisions of Article Six of the federal Constitution relating to the supremacy of the Constitution and laws of the Union and to the administration of oaths to the officers of the States, binding them to support the federal Constitution. Now the successful administration of the Selective Service Act so largely by the aid of State officers revives the interest of political scientists in these early speculations concerning the function of the States as agents of the Nation.

There are five separate cases in which the States may act as agents of the Nation.

The first is that in which the agency is expressly imposed upon them by the Constitution of the United States. Each State shall appoint its quota of presidential electors in such manner as its legislature shall direct; and the State legislatures shall prescribe the times, places and manner of holding elections for Senators and Representatives, subject to the power of the Congress to make or alter such regulations.

The States also play an essential part in the process or con-

population and importance. This might under readily conceivable circumstances bring disaster to the Nation.

The excessive inequality between the large and small States renders the States no less unsuited for the performance of their other political functions as agents of the Nation. The eight States of the arid and mountainous West, for example, though possessing only fourteen Congressmen, less than a thirtieth of the total, have a sixth of all the Senators. Such a disparity of population and political influence threatened to produce consequences when the silver question was the dominant issue in national politics, and may in the future produce graver consequences. It would be possible for States possessing only one-twelfth of the Congressmen, through their disproportionate representation in the Senate, to prevent the submission of a constitutional amendment, and for States possessing only one-twentieth of the Congressmen to prevent its ratification. Such inequitable results are unlikely, but a system under which they are possible is a menace. Even if these results should never ma-

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population and importance. This might under readily conceivable circumstances bring disaster to the Nation.

The excessive inequality between the large and small States renders the States no less unsuited for the performance of their other political functions as agents of the Nation. The eight States of the arid and mountainous West, for example, though possessing only fourteen Congressmen, less than a thirtieth of the total, have a sixth of all the Senators. Such a disparity of population and political influence threatened to produce consequences when the silver question was the dominant issue in national politics, and may in the future produce graver consequences. It would be possible for States possessing only one-twelfth of the Congressmen, through their disproportionate representation in the Senate, to prevent the submission of a constitutional amendment, and for States possessing only one-twentieth of the Congressmen to prevent its ratification. Such inequitable results are unlikely, but a system under which they are possible is a menace. Even if these results should never materialize, the inconvenience of leaving the management of presidential elections to the States is enough to condemn the system which utilizes the States as political agents of the Nation and would justify the exclusive regulation of national elections by the federal government, but for the difficulty in settling the suffrage problem.

The second case in which the States may act as agents\* of the Nation is that in which the Congress is expressly authorized to utilize the services of the States, if it wishes, though no duty is imposed upon them directly by the Constitution. The Congress, for instance, has power to call forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. The utilization of the militia, however, for national purposes has never proved satisfactory, and the federal government, when in need of forces to supplement the national army, has generally preferred to reorganize the militia as an integral part of the national military establishment or recruit additional forces without regard to the military establishments of the States. Prior to the enactment of the Selective Service law the recruit-

ment of national forces was conducted by the federal government and little or no attempt was made to utilize the agency of the States. After the Spanish War an attempt was made to render the militia a more serviceable second line of defence through the grant of federal subsidies to the States to be expended under the supervision of the federal military authorities, but the results obtained down to the World War were not regarded as satisfactory. In general the federal government has been much more successful as the agent of the States for their protection against domestic violence than the States have been as agents of the Nation for the national defense. The tendency therefore is for the States to rely more and more upon the federal government for police protection and for the Nation to rely less and less upon the States as agencies of national defence.

The third case in which the States may act as agents of the Nation is that in which the Congress imposes duties of a character not prohibited, though not explicitly authorized, by the federal Constitution. The first important instance in which the Congress ventured to utilize the services of the States in this manner without a clear constitutional mandate was its enactment of the fugitive slave law of 1793. The Constitution had provided that any person held to service or labor in any State under the laws thereof and escaping into another State should be delivered up on claim of the party to whom such service or labor might be due. It did not say by whom such person should be delivered up nor in what manner the delivery should be effected. It did say, however, that no fugitive should be discharged from his servile condition because of any law or regulation of the State into which he should escape. An obvious inference is that the State into which the fugitive should escape was to be held responsible for his rendition, if found therein by the claimant. This opinion was held by no less an authority than Webster. In his famous Seventh of March speech he said, referring to the clause, that he "had always thought that the Constitution addressed itself to the legislature of the States or to the States themselves." When it said that the fugitives should be "delivered up," he was of the opinion that this was an

injunction upon the States, and that they should cause the fugitives to be delivered up. The Congress which passed the original fugitive slave law was evidently of a like opinion. But in the great case of *Prigg versus Pennsylvania*, decided by the Supreme Court in 1842, it was held that the obligation to secure the return of fugitive slaves lay upon the federal government and not upon the States. The act of 1793 conferred authority upon both federal and State judges to sanction the rendition of fugitives when duly claimed by their masters. As to the authority conferred upon the federal judges, Justice Story, speaking for the Court, said that there could be no doubt of the power of the Congress to charge federal officers with the enforcement of the law. As to the authority conferred upon State magistrates, he continued, "while a difference of opinion has existed, and may exist still on the point in different States whether State magistrates are bound to act under it, none is entertained by this court that State magistrates may, if they choose, exercise that authority, unless prohibited by State legislation." Thus the obligations lying upon the States as agents of the Nation were left obscure, and the efficacy of State action rendered uncertain. Justice McLean, in a separate concurring opinion, stated his conclusion on this point more clearly than Justice Story had done. "It appears," he said, "in the case under consideration, that the State magistrate, before whom the fugitive was brought, refused to act. In my judgment he was bound to perform the duty required of him by a law paramount to any act on the same subject in his own State." Justice McLean, though stating thus strongly the duty of State officers in this case to act as agents of the Nation, conceded that if a State officer refused to perform his duty, the claimant would have no recourse but to take his fugitive before the nearest federal judge. He did not consider the further question, whether the federal government, assuming that it had the power to authorize State officers to act as its agents in such cases, had the power also to compel them to perform the duties resulting from such agency. The majority of the Court, however, were not ready to assert even that the Congress had the power to make State officers federal agents for the enforcement of the fugitive slave law.

Hence, when enacting the more stringent fugitive slave law of 1850, the Congress confided the enforcement of the law entirely to federal officers. The attempt to make the States agents of the Nation was abandoned. The inference is that the claim to a right to do so was itself surrendered.

The history of the clause of the federal Constitution relating to the return of fugitives from justice tends to confirm this inference. That clause provides that a person charged in any State with any crime who shall flee from justice and be found in another State shall on demand of the executive authority of the State from which he fled be delivered up, to be removed to the State having jurisdiction of the crime. The act of 1793, providing for the rendition of fugitive slaves, also prescribed the mode in which the demand should be made for the return of fugitives from justice. In such cases demand was to be made of the chief executive of the State in which the fugitive might be found. But when, in the celebrated case of *Kentucky versus Dennison*, a State sought the aid of the Supreme Court of the United States to secure the return of a person charged with the crime of aiding a slave to escape, since the Governor of Ohio was unwilling to deliver him up on demand, as provided by the law, the Supreme Court refused to interfere. It held, as Justice McLean had been disposed to hold in the *Prigg* case, that the State officers ought to perform the duty imposed upon them by the act of Congress. But they could not be constrained by the federal government to return a fugitive from justice, if they chose to disregard their obligation to do so. In other words, the Supreme Court distinguished between a legal and a moral obligation. The former was enforceable; the latter was not. The obligation imposed upon the States by the Constitution in respect to fugitives from justice was of the latter character. This decision greatly impaired the usefulness of the States as agents of the Nation in all cases of this kind.

The court over which Chief Justice Taney presided was apparently unwilling to come to any decision which might seem to uphold the doctrine that the federal government could coerce a sovereign state. That may explain its reluc-

tance to enforce against the officers of a state the constitutional mandate that a fugitive from justice shall be delivered up on demand of the executive of the state from which he fled. Be that as it may, the power to harbor fugitives from justice has not been so abused by the state executives as to give rise to serious grievances, and Congress has not found it necessary to pass a federal fugitives from justice act, which would provide special federal machinery for the rendition of such fugitives. It is a fair question, moreover, whether the federal Supreme Court would now hold, as Taney's court did, that a State cannot be compelled to discharge an obligation imposed upon it by the Constitution of the United States. The latest case in which this question was involved was the action by the State of Virginia against West Virginia to compel the assumption by the latter of its share of the Virginian debt, as it stood at the date of the separation of West Virginia from Virginia. In this case the Supreme Court awarded judgment for several millions of dollars to Virginia. West Virginia was so slow in honoring this award that Virginia asked the Supreme court to execute its judgment by any efficacious judicial process within its power. The Supreme Court tried to avoid the issue presented by this plea by granting West Virginia repeated extensions of time for satisfying the claim. Finally, however, as West Virginia continued to procrastinate and it was evident that further delay would bring the authority of the Supreme Court in such cases into contempt, the Court was forced to consider whether there was not some form of federal execution which could be employed to compel West Virginia to satisfy the judgment. The court even went so far as to order West Virginia to appear and show cause why its property should not be seized, or its citizens required to pay a special assessment of some sort, in satisfaction of the judgment. At this point, after more than ten years of evasion, the West Virginia legislature made provisions for assuming its share of the debt.

It is not clear, therefore, how much authority the cases of *Prigg versus Pennsylvania* and *Kentucky versus Dennison* retain at this time. If it be conceded, as was asserted

by the majority of the court in the earlier case, that the mandate of the Constitution is not directed against the states but against the Union, and that federal, not state officers are those on whom the obligation lies to secure the rendition of fugitives, or that, though directed against the states, it is not enforceable by any legal process within the control of the federal government, then it is not necessary to consider how much power, if any, the federal government may possess to constrain the state governments to discharge the obligation. But if on the contrary, it be true, as Webster and doubtless also most of the framers of the Constitution believed, that the mandate of the Constitution in such cases is directed against the states, the only conclusion that is now possible is, that the nature and extent of the power of federal execution in such cases has not yet been disclosed. In view of this uncertainty it would be imprudent for the federal government to rely on the agency of the states for the administration of the laws of the Nation, except in extraordinary cases, like that of the Selective Service Act, where the exceptional force of patriotic sentiment may be expected to offset the deficiency in the force of the law itself.

The fourth case in which the states may act as agents of the Nation is that in which they voluntarily undertake duties neither required of them by the federal Constitution nor imposed upon them by the Congress. Assuming that what is not expressly prohibited to the states is within their power, even if not explicitly or implicitly reserved to them, they should be able to assist the federal government in the performance of many duties not now regarded as necessarily within the sphere of state action. Such a broad construction of the Constitution, if tenable, would open up a wide field for state action. They might, for example, regulate interstate and foreign commerce, in so far as their regulations did not conflict with those of the federal government, legislate on the subject of naturalization and bankruptcies, fix the standards of weights and measures, establish post-offices and post roads, and issue state patents and copyrights, conferring exclusive privileges upon inventors and authors within their several jurisdictions. In fact the states have exercised some

of the powers within this field and have attempted to exercise others. The federal Supreme Court has sanctioned a part of this legislation and has condemned the rest. In some cases it has held that the absence of federal legislation with respect to a certain subject, over which exclusive jurisdiction has not been expressly conferred by the Constitution upon the Congress of the United States nor concurrent jurisdiction explicitly denied to the states, has the effect of leaving the field open to the states. In such cases state legislation has been sustained by the federal courts. Thus state insolvency laws were sustained in the absence of a national bankruptcy act. Much state legislation in regulation of interstate and foreign commerce has also been sustained under similar circumstances. In other cases the Supreme Court has held that the absence of federal legislation is to be construed as evidence of a purpose on the part of the Congress that there shall be no legislation on the part of the States with respect to the subjects concerned. In such cases the Court has consequently declared the state legislation invalid. These cases have been most conspicuous in connection with attempts on the part of the states to regulate commerce, and have become more numerous in recent years. The general tendency has been in the direction of an expanding federal, and a contracting state, power.

Among the earlier cases of this sort the most noteworthy is that of *Prigg versus Pennsylvania*, already cited in another connection. In this case the Supreme Court held, not only that the obligation to secure the rendition of fugitive slaves lay upon the federal government, but also that this was an exclusive obligation. Hence the laws of the States, enacted to aid in the recovery of such fugitives, were all unconstitutional. Chief Justice Taney submitted a vigorous dissent on this point, in which two of his colleagues concurred. He contended stoutly that the States possessed a concurrent jurisdiction over the subject. The result was to leave the whole subject in doubt, and the doubts have never been dispelled. In many cases the states have invaded this twilight region where the confusion of state and federal authority has left the limits of each in obscurity. In some

of these cases they have accomplished their purpose. More often they have failed. In other cases the Congress has tried to give effect to the legislation of the several States with respect to subjects over which their jurisdiction may be supposed to be concurrent. Thus by the Webb-Kenyon act the Congress tried to enable the States to exclude intoxicating liquors from their borders. In this it was successful. But subsequently the Congress made a somewhat similar effort to enable the States to extend the protection of their workmen's compensation acts to longshoremen and stevedores, employed in unloading vessels engaged in interstate or foreign commerce, and failed. When the Congress came to submit the eighteenth amendment to the States and wished to make sure that the States would have concurrent power to enforce the amendment, they explicitly so provided in the amendment itself. In general the States do not receive the benefit of the doubt in cases involving their implied concurrent power under the federal Constitution. They cannot greatly extend their range of activities into the twilight region except upon sufferance by the federal government. Within this vast and increasingly important field of operations they are at best mere tenants at will. In special cases they may be permitted to function concurrently with the federal government, but the experience with the use of concurrent powers by the States under the prohibition amendment does not warrant the expectation that the Nation will depend upon such agents for more than casual and purely supplementary assistance. It does not seem likely that there will be much opportunity for States to function concurrently with the federal government as agents of the Nation.

The fifth case in which the states may act as agents of the Nation is that in which the federal government voluntarily assumes responsibilities not prohibited, though not expressly conferred upon it, by the Constitution, and previously borne by the States alone. In this case the States are already in possession of the field and there can be no question of their eviction by the federal government. But by the grant of federal subsidies in aid of established or projected state activities the States may become the agents of

the Nation in so far as the expenditure of such grants is concerned. To what extent the federal government should attach conditions to the grants by means of which it may acquire an influence over the activities of the States not contemplated by the Constitution is a question of policy that does not require consideration here. It suffices to know that the implied powers of the federal government are broad enough to cover intervention in almost any field of administrative action in which it is sufficiently interested to be willing to supply substantial funds. The modern rule of constitutional interpretation in such matters seems to be that laid down by President John Quincy Adams in his first annual message to Congress. "The Constitution under which you are assembled," said he, "is a charter of limited powers . . . . If these powers may be effectually brought into action by laws promoting the improvement of agriculture, commerce, and manufactures, the cultivation and encouragement of the mechanic and of the elegant arts, the advancement of literature, and the progress of the sciences, ornamental and profound, to refrain from exercising them for the benefit of the people themselves would be to hide in the earth the talent committed to our charge." John Quincy Adams wished to use the "talent" committed to his charge for internal improvements, largely in the form of river improvements and canals, and for a national university at Washington. In more recent times the use of the "talent" has been demanded for rural highways and automobile roads, and for state universities and vocational education.

Thus the Selective Service Act is not the only harbinger of a new era in the constitutional history of the States.<sup>1</sup> Nearly sixty years ago Congress inaugurated the policy of federal grants to the States in aid of education. The Morrill Act of 1862 provided for the establishment of the state agricultural and mechanical colleges by an endowment of lands from the public domain. Subsequently, in 1890 and in 1907, Congress passed acts authorizing permanent ap-

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<sup>1</sup>Cf., Paul H. Douglas, "The Development of a System of Federal Grants in Aid," *Political Science Quarterly*, June and Dec., 1920.

appropriations of money towards the further development of the land-grant colleges. These funds are administered by the Bureau of Education of the Department of the Interior. In addition, the States Relations Service of the Department of Agriculture administers the funds provided by a series of acts, beginning in 1887, for the support of the agricultural experiment stations established in connection with the land-grant colleges, and of the coöperative extension work in agriculture and home economics. Finally the Federal Board for Vocational Education, created in 1917 on the eve of the War, administers the funds for the promotion by the States of vocational education in agriculture, industry, and commerce, and for the training of teachers of vocational subjects. By the acts of 1918 and 1920 this Board has also been charged with the allotment of additional sums for the vocational rehabilitation of disabled soldiers and sailors and of the victims of industrial accidents in civil life. A similar policy has been adopted with respect to the improvement of rural post roads. Under the acts of 1912, 1916, and 1919, the Office of Public Roads in the Department of Agriculture administers the federal aid authorized for the improvement of such roads. This now amounts to one hundred millions of dollars a year and is expended by the State highway authorities under federal supervision. The Congress which has just adjourned had before it three measures of a similar character. One was to authorize an additional one hundred millions of dollars to be apportioned among the States under the Rural Post Roads acts; a second was to authorize the apportionment of an additional one hundred millions for educational purposes, the so-called Smith-Towner bill; and a third, the so-called Sheppard-Towner bill, to authorize the apportionment of a lesser amount to assist the States in providing for the public protection of maternity and infancy. The federal aid to be authorized by the first of these pending bills would be administered by the Department of Agriculture through its Office of Public Roads, as in the case of the earlier Rural Post Roads acts. The Federal aid to be authorized by the Smith-Towner bill would be administered by a new Department of Education,

which will absorb the existing Bureau of Education in the Department of the Interior. The aid contemplated by the Sheppard-Towner bill would be administered by another Federal Board representing the federal education authorities and the Public Health Service. The chief of the Children's Bureau in the Department of Labor is designated the executive officer of this Board.

Whatever may be the ultimate fate of these measures, this is the field in which the States have the most promising future. As electoral agencies the States have served the Nation badly. As the agency for recruiting the second line of national defence the States have served with no more than indifferent success. As instruments of national action in such matters as the rendition of fugitives they have put local interests and prejudices before the interests of the Nation as a whole. As agents in fields of administrative activity where their constitutional position is uncertain, their future is precarious and their utility doubtful. It is only in those fields of activity which they already occupy, and where the federal government intervenes in the character of financial associate and adviser that they have any real opportunity to serve as agents of the Nation. In this field, as changing economic and social conditions call for greater services on the part of the government to the people, the signs portend an unprecedented development of administrative activity.

These considerations lead to the more general question: What is to be the future sphere of the States in the American political system? This is a question which has not ceased to engage the attention of thoughtful Americans from the time, one hundred and thirty-four years ago, when the federal Constitution was first submitted to the people of the United States. The original Anti-Federalists professed to believe, many of them probably did believe, that the operation of the federal government would by degrees prove fatal to the State governments. They feared that the inevitable tendency of the new system would be towards consolidation into a single unified body politic. These forebodings of the annihilation of the States presented one of the most formid-

able obstacles which the advocates of the more perfect Union had to overcome. Madison devoted one of his numbers of *The Federalist* exclusively to this objection. "The more I revolve the subject," he wrote, "the more fully I am persuaded that the balance is much more likely to be disturbed by the preponderancy" of the States than of the federal government. One reason for this conviction is that suggested by the passage which has already been quoted from his writings. He gives other reasons, however, besides his belief that the States would find a wide field of usefulness as agents of the Nation. The weight of Madison's opinion may be somewhat diminished in this instance because he wrote as an advocate rather than as a dispassionate political scientist. But it is confirmed by the judgment of disinterested critics of the highest authority. DeTocqueville, for example, the brilliant French publicist, writing nearly half a century later on *Democracy in America*, will not be suspected of bias as between Federalists and Anti-Federalists. "I am strangely mistaken," he said, "if the federal government . . . be not constantly losing in strength, retiring gradually from public affairs, and narrowing its circle of action . . . It may be predicted that, unless some extraordinary event occurs, the government of the Union will grow weaker and weaker every day."

In justification of DeTocqueville, and perhaps also of Madison, it may be suggested that an extraordinary event did occur. The doctrine of states rights was subjected to trial by battle and convicted of error. The principle of national sovereignty was thus firmly established and the ancient fears lest the adoption of the Constitution of 1787 result in the eventual annihilation of the States were once more in order. Bryce in his great work on *The American Commonwealth* noted the revival of those fears and discussed with his customary luminosity the prospects of the States in the restored Union. "It was generally believed in Europe," he wrote, "when the North triumphed over secession in 1865, that the federal system was virtually at an end." Fortunately this belief was unfounded. Bryce points this out and then proceeds to declare that "it is nevertheless

impossible to ignore the growing strength of the centripetal and unifying forces. . . In the United States all the elements of a national feeling are present, race, language; literature, pride in past achievements, uniformity of political habits and ideas; and this national feeling which unifies the people is reënforced by an immensely strong material interest in the maintenance of a single government over the breadth of the continent. It may therefore be concluded that while there is no present likelihood of a change from a federal to a consolidated republic, and while the existing legal rights and functions of the States may remain undiminished for many years to come, the importance of the States will decline as the majesty and authority of the National government increases." This view is the reverse of Madison's and DeTocqueville's, and is that which most generally prevails to-day.

The writer, who has stated most boldly the possibility of the extinction of the States by absorption into the central government, is the American political scientist, Burgess. In his leading article in the first number of the *Political Science Quarterly*, composed at about the time that Bryce was penning the prophecy which has just been quoted, he inquired: "Have we not completed our federal era and attained the natural condition of a real national system?" His answer to his own question was emphatic. "The two natural elements in our system are now the Community and the Nation. The former is the point of real local self-government; the latter that of general self-government; and in the adjustment of the future these are the forces which will carry with them the determining power. The Commonwealth [State] government is now but a sort of middle instance. Too large for local government, too small for general, it is beginning to be regarded as a meddlesome intruder in both spheres—the tool of the strongest interest, the oppressor of the individual . . . In the twentieth century the Commonwealth will occupy a much lower place in our political system. . ."

A new generation has come on the stage since these predictions were made and it is time to test their accuracy. There is much to substantiate them. The influence of easy

and rapid communication between all parts of the country, of improved postal, telegraph, and telephone services, and of a popular national press, of the creation of a nation-wide market for many kinds of goods, and of a better financial system, in short, the whole tendency of the economic changes of recent years has been toward the aggrandizement of the federal power at the expense of the States. There is consequently an increasing tendency to invoke federal action to deal with matters which cannot be adequately handled by the States, such as transportation, commerce, and labor problems. The champions of the farmer, of the wage-earner, and even, as in the case of daylight saving, of the tired business-man, resort to Congress as the only agency strong and wide-reaching enough to give effect to their proposals. Many of them indeed would be impracticable if tried in the narrow area of one or more States. It is more true than ever that, as Bryce intimated, "State patriotism, State rivalry, State vanity, are no doubt still conspicuous, yet the political interest felt in the State governments is slighter than it was before the civil war, while national patriotism has become warmer and more pervasive." The tendency grows stronger to exalt the authority of the national government and to expand its administrative activities at the expense of the States. Indeed, the continued growth of federal power and contraction of the field in which the States are free to operate has been the outstanding feature of the constitutional history of the United States during the period since Bryce and Burgess wrote. The principle of dual sovereignty, long supposed to be the foundation of our political system, has been practically overthrown.

Nevertheless the prediction of Bryce and Burgess cannot now be accepted without modification. The decision to utilize the services of the States as agents of the Nation in the administration of the Selective Service Act did not in itself open up an opportunity for the States to rehabilitate their declining fortunes. But it reflected a consciousness of a growing opportunity in another field for the States to regain what they have lost as sovereign Commonwealths. Their

function of national agents will become increasingly important as the nation becomes more and more interested in activities originally carried on by the States alone. It is a common observation that the State governments are doing more for their people today than ever before. They raise more money, they employ more servants, they accomplish greater results. They may be relatively less powerful members of our political system, but they are more active, and action is the substance of government. This is partly the result of the increased demand for governmental action of many kinds which has resulted from the economic and social changes of recent years, a demand which the federal government alone has not been able to satisfy. Partly also it is the result of increasing public confidence in the administrative capacity of the States and recognition of their better adaptability to local needs. The evils of excessive centralization are better understood than a generation ago. While superior financial resources of the federal government make its assistance indispensable, the superior adaptability of the State governments to local conditions is likely more and more to lead the federal government to work through the agency of the States, securing the necessary degree of federal control by the power of the purse. Our dual system of government will respond to the changing conditions. It will tend to approximate a federal system of the German or Swiss type, in which the States will be able to justify their continued existence as administrative agents of the national government. This is the tendency which Madison and his associates foresaw, but it will come about in a manner which they did not anticipate. The federated states will not give way before a single consolidated and highly centralized State, as many statesmen and political scientists have apprehended. They will continue to play a large, even an increasing, part in the administration of public affairs, but as instruments of national purposes rather than as independent political entities. The problem of administrative areas in the United States will not be solved by such a conversion of the sovereign States. Doubtless there will be fields of administrative action, such as per-

haps railroad transportation and social insurance, in which new administrative areas for national purposes will be devised upon an economic or industrial rather than territorial foundation. The administration of public affairs will grow more rather than less complicated with the development of the functions of government. But the place of the State in the government of the nation seems to be secure.

If the States are to make the most of the promise of the future they should adapt themselves to function as administrative rather than political areas. The Congressional Joint Resolution of March 1, 1845, under which Texas entered the Union, provided that new States in addition to Texas herself, not to exceed four in number, might be created out of the Texan domain.—a vision of expansion unparalleled in the history of the States. To what extent this right has been affected by the subsequent surrender by Texas of her claims to territory now included within the borders of New Mexico, Colorado, Kansas, and Oklahoma, it is not necessary to inquire now. Whether such a right, indeed secured only by a special reservation in the enabling act under which the State was admitted to the Union, would be enforceable, is another question which need not now detain us. The significance of this reservation lies in the suggestion that the existing boundaries of the States need not necessarily be regarded as permanent. How much better adapted to service as administrative agents of the Nation, the States might become, if they or some of them were reorganized with a view to administrative instead of political conditions. California, for example, might well be divided into two States, and if Nevada were attached to the Northern part, and Arizona to the Southern, how much more serviceable as agents of the Nation such States would be, and how much more service their people could obtain with the taxes they pay. New Mexico might be strengthened to the great advantage of its people, if Western Texas, or at least that part of it lying in the upper Rio Grande valley, were joined to New Mexico. Nor would Texas be injured by the operation. But these are academic suggestions! The States will probably remain primarily political areas for a long time to

come. Those which happen to be best adapted for the efficient performance of their growing functions as national administrative areas, however, will profit most by the tendencies of the future, for the future of the States lies, not in politics, but in administration.

## TRAINING FOR SOCIAL SERVICE IN THE SOUTH<sup>1</sup>

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Social service is a generic term for a series of related activities within the general field of public welfare. It is not at the present time to be brought within the rigid boundaries of formal definition. It is a profession in the making, and as such, is slowly freeing itself from partial notions of scope and function and taking shape in response to social need and in accordance with the findings of scientific investigation. Its unity lies not so much in a unique subject matter or in a similarity of work performed as in the fact that the service rendered requires the attention of persons of proper professional training.

The essential task of social work is to provide professional service in time of need or in time to prevent the emergence of acute need. It is not the giving of external help; it is the rendering of a professional service. The essential technique consists in helping the individual or family to so analyze and define a problem situation that an individually and socially tolerable adjustment may be made, and in assisting the community to see its own human and social needs and in directing the mobilization of the community resources toward meeting them.

The function of the social worker is comparable with that of the physician. The physician may be engaged in the treatment of individual maladies or in public health and preventive medicine. But in either case he is making an application to a particular situation of a body of scientific knowledge which is his distinctive stock in trade. So the social worker may be concerned with individual problems of maladjustment or with problems of community organization or with any problem between the two extremes but in any case he is furnishing a professional service; he is bringing to bear on the particular problem in hand his body of social science information.

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The antecedents of modern social service were the earlier systems of remedial charity and the profession is still in large measure dominated by conceptions derived from the earlier practice. This earlier practice was charity in relief of suffering and as such its attention was of necessity upon the handicapped and the miserable. The service performed frequently ranged over the whole series of disorders resulting from individual variation and social neglect but the motive was frankly the amelioration of the condition of the poor.

As this philanthropic work grew out of the ecclesiastical and sentimental stages and began to be put upon a semi-scientific basis, more attention came to be directed toward the conditions operating to produce the derelicts whose care earlier was the chief or only concern. Various causal factors—housing, standards of living, recreational opportunities, legislation, and the like—came within the social worker's field of interest, and more energy was expended in the efforts to modify social conditions productive of unfortunate individual and family situations. There was thus a gradual shifting of the attention from the disadvantaged to the causal factors, and an increase in preventive effort. The field of relief, without becoming intrinsically less important, came to be but a single phase of social service.

The broadening conception of the social service task has, inevitably, been accompanied by some loss of definiteness. So long as the social worker's philosophy accepted the existing social arrangement and his activities were confined to mediating adjustment to it, the field of work was as definite as it was limited. But, as the activities came to be in part preventive in character, the social worker came into contact with a new order of problems and in facing them developed a professional service, still inchoate, which requires new methods of procedure.

There is no general agreement in the camp of the social workers as to the relation or relative importance of the different phases of the work. It is even too much to assume that the generality are aware of the changing

functions of the service. It is frequently identified, even in the minds of the social workers themselves, with the remedial ministrations of the family case worker; that is, with the essentially human task of assisting more or less capable people to fit themselves into a crude and imperfectly working social machine to the best interests of themselves, their dependents, and society at large. This is the type of work that was first developed; its method is best worked out, and the number of workers manipulating its technique is larger than in any other phase of social work. Consequently, the whole profession tends to be dominated by this group of workers and by the standards of work appropriate to this segment of the field.

The first problem facing those who undertake the task of training others for the field of social service is an evaluation of the different phases of the social worker's task and an attempt to place the different types of social service performed in some sort of fair relation to each other in the teaching program. In this task of evaluation, due account must be taken of the peculiar situation in which the worker is to function, and the proper degree of emphasis placed upon the types of service most valuable and forward-looking in the situation. The training given should be of a type adapted to the needs of the community to be served.

Social work in this country had its first development in the larger cities of the North and East. It developed in response to the needs of the local situation and evolved a highly specialized technique admirably adapted to the problems to be met. The assumption is current in orthodox social circles that this technique is of universal validity and capable of universal application, and there is a consequent tendency to carry it over and impose it on other situations. This Procrustean procedure is not always productive of happy results. It is necessary to recognize that family case work does not cover the whole field of social service and, so far as rural and semi-rural conditions exist, is neither the center nor the most important part of the field.

So, without in any way raising the question as to the legitimacy of other methods of procedure in other situations, we may recognize that the South has some special problems and, so far as this is the case, may have need for distinctive methods and adaption of methods in dealing with them. The training program must recognize the distinctive needs and give the student in training the equipment for dealing with them.

The South is essentially rural. The problems that confront the social workers are those of farm, village, and town life.

That there is maladjustment in these conditions that makes a place for the ministrations of the remedial worker every reasonable and informed person admits. The recent publication of the army statistics relative to the physical and mental condition of the army recruits showed about twenty per cent of the drafted men to be unfit for service and half the remainder were accepted in spite of obvious defects. Probably three-fifths of the adult male population are defectives or, including the women where the per cent of defect is still higher, three-fourths of the adult population are suffering from some form of handicap. On the mental side the examinations showed about seventy per cent of the recruits to have a level of intelligence inferior to the normal boy of fifteen years. That there is a place and a need for every type of social service in a population with approximately seventy-five per cent of its adult members handicapped and nearly the same per cent of its members having an intelligence level of adolescent children is too obvious to require elaboration. The need in the South is not less than in the country at large. Indeed, so far as a difference exists, the South makes the poorer showing: the per cent of defect is somewhat higher; the level of intelligence is somewhat lower.

There is thus no intention to minimize the importance of work to be done with the disadvantaged groups. Our institutions are admittedly inadequate and not always models of their kind; our legislative neglect is somewhat

notorious; our penal system is odious. Almost nothing has been done and it is practically impossible to exaggerate the pitiable condition that has resulted from social neglect and toleration of conditions that degrade. But it is equally necessary to recognize that poverty with its accompaniments presents a different problem in different settings. The problem and the procedure in the open country with its primary, personal, type of social life are things quite apart from the problem and the procedure in the urban situation with its secondary, impersonal, type of human relations. Moreover, and apart from the differences of procedure, the problems of the disadvantaged and the handicapped, however important they may be, are not the chief problems confronting social service in the South.

The outstanding problems which, if not peculiar to the South are to be found here in peculiar form, are problems of a community sort. The South is confronted by a condition of rural isolation the effects of which must be neutralized if the section is not permanently to remain the laggard in American culture. It is unique in its possession of a race situation in which some steps in the direction of improvement must presently be made. The lack of public appreciation of the local social needs is almost complete.

These and numerous other characteristics of the Southern situation present problems of community organization and social education. The reliance on the common sense and popular interest in dealing with them has not only failed, it has resulted in social conditions that have made certain sections of the South, at least, a national byword. To the solution of such community problems the social worker must make his contribution or fail to justify his existence in the situation. But a technique for the solution of such problems and for dealing with such situations is yet to be developed; a procedure adapted to the problems and conditions must grow. It is not a thing that exists elsewhere which may be taken over ready-made and applied to the Southern field. Work

is being done, experiments are being tried, experience is being recorded, and methods of work are being shaped and perfected but no technique now exists in any fully developed form.

If this characterization of the Southern situation be in accord with the facts, the function of social service is in part a professional attention to the needs of the handicapped and the maladjusted and in part a community service. On the part of the person who undertakes to mediate in the adjustment of personal and family problems there is needed the training and capacity to understand the mental and temperamental nature of the person in distress as well as an understanding of the social organization into which adjustment is to be made together with a certain amount of tact, a certain maturity of judgment, and a freedom from race and creedal prejudice. When the task essayed is one of community organization or any problem involving group direction the professional person needs an understanding of the nature of social progress as well as some knowledge of the social forces and their operation in order to appreciate community and group needs and to direct the group forces and community resources to the end of social advance. So, whatever it may be elsewhere, the training needed by the social worker in the South in the present stage of development is not so much technical and vocational as it is educational. What is most needed is ability to see the community problems and to see them in relation to the whole social situation, plus an acquaintance with such methods of work as have proved valuable elsewhere.

The function of social service in the South is to provide a community leadership. Every community is suffering from its lack. This is inevitable perhaps in view of the conception of higher education that has been so long dominant in the South, but it sets a task for social service teaching and that task is largely one of producing persons capable of leadership and community direction. The type of social worker that we here need is the person with the ability to define the community needs, point out the com-

munity resources, and rationalize and direct community efforts at social betterment in a way to avoid mistakes, waste, and misdirected growth.

An adequate training for this type of social service demands, in addition to the general training that forms the background of modern culture, a certain minimum of knowledge of the body of fundamental science on which the profession of social work rests: some knowledge of the human animal on both the physical and the mental side; some knowledge of sanitation and public health; some knowledge of modern industrial society and economic institutions; some knowledge of political institutions and their functioning; some knowledge of social organization and social forces; such knowledge, in other words, as forms the essence of any education accurately termed cultural. In addition to it, the professional social worker must needs acquire a fund of more specialized social knowledge on which more directly to base a technique. A knowledge of race, immigration, labor, poverty, defectiveness, delinquency, child care, and other social problems of the population is essential. Finally, there is a certain amount of strictly social work technique to be mastered.

Stating this in terms of university training: a college education is an essential minimum basis for professional social service. But graduation from college is not essential. Nor is a college degree any evidence of educational fitness: there are all sorts of college degrees. But if the student devotes the earlier years of a college course to history, literature, and the physical and biological sciences; the middle years to acquiring an elementary acquaintance with the fundamental social sciences of psychology, sociology, economics, political science, and the like; and in the latter years of his course gives his chief attention to the field of pre-professional study in such problems and conditions as are conventionally included in the undergraduate courses in social technology, he should by the time of graduation be reasonably pre-

pared, academically, for the simpler types of social service and leadership.

In addition to this a year may profitably be spent in vocational work and practice training. It is, however, quite usual to over emphasize this phase of the teaching because professional training is so often given to inadequately prepared students. Without a knowledge of the principles and facts of human behavior and social organization the technical training presents peculiar difficulties and its acquisition is necessarily imperfect and somewhat mechanical. But the socially trained person will acquire a social work technique with ease and rapidity. It is entirely feasible and in accord with some good modern practice to include the strictly technical training as a part of the senior year in connection with the pre-professional work. It is after all learning a technique and this is chiefly a matter of the student acquiring skill in the manipulation of a tool and acquiring a confidence in his ability to manipulate the tool with skill.

It seems fair to assume that a minimum adequate training for social service is that represented by a college course placing the chief emphasis on the social sciences plus a year of vocational study and practice.

I recognize also that the minimum here outlined is somewhat in excess of the amount of training now usually required of persons entering social service work. Incidentally, here lies one reason for the low status of so much of the present day work. Also I recognize that there are certain difficulties in the way of insisting upon an adequate training and that there are some special difficulties to its attainment in the South.

The South is essentially rural with all the advantages and disadvantages that go with that status. As a result of it we are in special need of social service. But with it, perhaps as a result of it, we possess a certain insularity of mind that makes us particularly sensitive to our shortcomings and resentful of attention being directed toward them. We are still in the psychological stage of juvenility where we are avid of flattery and reference to our re-

medial deficiencies is more apt to get an emotional than an intellectual reaction. We are more prone to apologize for our faults, explain, minimize, and conceal them than to frankly face the unpleasant and profit by criticism. This attitude of mind is an outstanding obstacle to social service and social service training which of necessity recognize the existence of the imperfections they are concerned to remove.

The low status of so much of the social work that is now being done is another obstacle to social service training. The idea is general that social work is a glorified sort of slumming and an objective attitude toward much that is actually being done gives not a little justification for the impression. To the ranks of the social workers there have been attracted not a few worthy men of God whose success in the ministry was not such as to warrant their continuance in that field of endeavor. Many teachers past their period of usefulness in the instruction of the youth have found social work somewhat less exacting. Many socially prominent and worthy women with a sentimental turn and slender income have been able to engage in the work without undue loss of caste. There would seem to be a widely prevalent idea that failure in another field of endeavor is evidence of competence to enter social work. No other professional field includes so high a percentage of persons whose failure in a former work is their chief preparation for their present occupation.

The fact that so many who are doing social work are untrained reflects itself in an indisposition on the part of others to undergo a serious period of preparation. They do not feel it necessary to understand the social order; they desire only a technique for reforming it. This attitude has been fostered the country over by certain schools, hard put to it for students, which undertake to produce trained social workers in periods varying with the financial straits of the school. It is consequently difficult for students to understand why they should be required to study psychology, sociology, economics, and the

like when other schools will give them a beautifully embellished certificate of incompetency without such preliminaries. This attitude has been further stimulated in recent years by the various "short courses" inaugurated as a necessary war measure. It is in part due to these palpable absurdities that a reaction has set in; we probably have seen the worst stage that this generation will see in the process of wet-nursing social reformers.

Another very real difficulty in the way of training for social service in the South lies in the fact that the colleges have somewhat neglected the social sciences. It is possible for the student to go through some of our liberal arts colleges and graduate as unbesmirched by a knowledge of contemporary civilization as he is by any gross knowledge of utilitarian possibility. Not only is it possible; in a goodly share of our institutions it is inevitable. In many colleges there is no opportunity provided for the student to get the sort of general and pre-professional information that will serve as a background for social service training. Consequently, it is necessary in the training for social service to provide training also in the fundamental social sciences and in pre-vocational work as well as the training in social service technique.

To insist upon an adequate training is more difficult in the South than in some other sections of the country because of the absence of a supporting body of opinion. The absence of the social sciences from the curriculum of the colleges has left the community practically devoid of socially-minded people. Consequently, there is little appreciation of the importance of the human sciences as a preparation for social work, and little appreciation of the need of social service itself. Even among the social workers themselves social training is so uncommon that there is a naïve unconsciousness of its absence.

Social service, in the conception of this paper, is a professional service. As such it can be performed only by persons of special training. The special type of service needed varies with the social situation and the training program should be adapted to the local needs. The

special need of the Southern sections is not so much for remedial charity, though that is not to be minimized, as it is for a socially trained leadership. The work of training for social service is the task of training a local leadership that may presently awaken communities to the consequences of existing social conditions, formulate plans for social welfare, and direct community efforts toward social betterment. The type of training needed by the person who would essay this task is a socialized education that will give him a vision of social efficiency, a working technique, and a body of specific information that he may bring to bear upon the concrete problems of his task. The difficulties to be overcome in the development of training for social service leadership lie in the present low status of the profession itself and in the signal failure of the colleges to produce either a body of public opinion favorable to social investigation and improvement or a body of graduates with a type of education that would serve as a basis for professional social service training.

# A REVIEW OF THE MINIMUM WAGE THEORY AND PRACTICE, WITH SPECIAL REFERENCE TO TEXAS

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Before describing the minimum wage law of Texas and the efforts to put it in force, it will be well to review the theory of the minimum wage and give a short account of how it has operated in other states.

## I

Our industrial society is founded upon private property and freedom of enterprise. Society relies largely upon competition to regulate industry in the interest of all. With people free to enter or to refrain from entering into contractual relations, it is assumed that the supply of things and of services will be readily adjusted to the demand. Our industries are organized by self appointed directors. We say let any man manage an enterprise who has the initiative to get together the needed factors of production. We assume that if qualified for the responsible task he voluntarily chooses he will survive, if not he will be eliminated by competition with those who are better fitted.

The expenses of producing goods must be incurred before the goods are brought to the market. It takes time to bring goods into existence. The outlay necessary to create the goods has been made by the time they are on the market. Whether or not they will sell for enough to meet the cost of production, depends upon the circumstances affecting the market at the time they are offered for sale. The organizer of a productive process must forecast the future; he must estimate the future demand for his product; he must guess as best he may what it will bring on the market when he is ready to sell. If his judgment is incorrect he may find that his goods bring in the market less

than it cost him to make them. In such a case, having failed to supply society with the goods most wanted, he would be eliminated, if competition always brought the commonly assumed results. But an organizer in such a predicament might reason that he had capital invested in his plant in highly specialized form, and that his machinery would have to be scrapped and would be almost a total loss if he should quit his business. Rather than face so great a loss he might elect to continue with the hope of a better market for his goods. In such a case he would certainly try to reduce the expenses of production. It might be very difficult appreciably to decrease the charges against his business in the way of rents, interest, taxes or insurance. In this strait he would likely try to reduce wages. If competition worked perfectly in all cases, he could not lower the wages of his employees, for if he did they would accept wages at the current rate from those employers who had been more successful in forecasting what society would want, and who were getting a price for their goods equal to or in excess of the expenses of production; when the failing employer asked his laborers to take less than the current rate they would leave him and go elsewhere. But ignorance of the facts, immobility, or other causes, often keep laborers from going elsewhere and causes them to submit to a reduction of wages, and this may enable the failing employer to reduce expenses and continue the business. In that event society would be getting a satisfaction for less than its legitimate costs, and would be using it in preference to other things only because it was brought to the consumer for less than such cost. A business not justified by social demand would continue to exist because subsidized through an enforced reduction of wages below the current rate. Society deserves no satisfactions the expenses of producing which it is unwilling to pay. It is assumed that under free competition, only such goods will continue to be brought to the market as will bring from those who want them enough to cover at the least the expenses of production. If organizers can beat down wages below the current rate, they will continue in, or even enter profitably upon a

business which would fail if it had to pay for all of the factors of production at the current rates.

Women and children are more apt to be exploited by such employers than any others. They constitute the least mobile portion of the labor supply. They must often work near home, and are limited to those opportunities for employment which are afforded by the community in which they reside. Advantage is frequently taken of the fact that they may be able to get a part of their support from other members of the family. Many employers of women prefer those who live with parents or husbands who contribute to their support. Again a woman worker is presumed to have none but herself to support, whereas a man is likely to have a family dependent upon him. For that reason the wants of a woman in industry are assumed to be less than those of a man. Her needs are supposed to be for one, herself; a man's needs are supposed to include those of others along with his own. Then, too, the unskilled women workers are not as a rule organized and find it very difficult to organize. When they do organize they rarely find themselves able to bargain to better advantage, for if they walk out, there are other women ready to replace them out of ignorance of the facts, or thoughtlessness, or from necessity. The women are the least able to bargain with powerful corporate organizations, or with resourceful employers.

With power machinery, women may be as useful in a given industry as men. Since they can be had for less wages it may be more profitable to employ them, or by using them instead of men, one employer may underbid another in the market. This often results in compelling all in such an industry to employ women, and wages are beaten lower and lower, until the whole industry may become sweated. Using women at the low wages fixed as the result of their lack of bargaining power, does not merely result in a poor standard of living for themselves, but it tends to drive men out of employment, or to lower their wages. The result of that kind of a process would be to reduce whole sections of the population to the direst poverty, to reduce the level of subsistence for all in such indus-

tries to the lowest to which the recent immigrant from the most impoverished land had been accustomed. To prevent these consequences as well as to protect the well being of women and children, some states have thought it necessary to enact minimum wage laws.

## II.

Minimum wage legislation originated and has had its development among English speaking people. The first minimum wage law was tried in the British possessions of the Pacific about a quarter century ago. In 1894 the District Conciliation Boards of New Zealand, established for the compulsory arbitration of labor disputes, were given the authority to fix minimum wages. In 1896, in the State of Victoria in Australia, the first independent agencies for fixing minimum wages were created. These Special Boards, as they were called in Australia, were made up of an equal number of employers and of employees, who in turn chose a chairman from the outside, who was supposed to represent the public. Other Australian states adopted this system, and by 1909 it was accepted by England. "The essence of the system is the free discussion of wage standards, by the authorized representatives of both sides, with the aid and criticism of one or more impartial outsiders; the fixing, by this bi-partisan group, of standards that are thereupon compulsory upon all employers in the industry; and the reservation by the government of power to suspend or otherwise mitigate rulings that appear positively unfair or inexpedient. No definite cost of living criterion is set up. The level of the standards finally fixed will rather depend upon the general temper of the community in which the law is operative and upon the respective bargaining power of the two sides."<sup>1</sup> The English were very conservative in applying a minimum wage law. The law specified four trades, but provided that it might be extended to other

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<sup>1</sup>Douglas, Dorothy W., *Am. Economic Review*, Vol. IX, No. 4, p. 702.

trades, if the Board of Trade are satisfied that the rate of wages prevailing in the trade is exceptionally low, as compared with that in other employments, and that the other circumstances of the trade are such as to render the application of the act expedient.<sup>1</sup> While England considers first the requirements of the business affected, the Victorian statute in Australia requires the Court of Industrial Appeals in its review of any ruling to take into consideration a living wage to the employees.<sup>2</sup> The law of England and in Australia makes provision for permits by which infirm workers may receive less than the prescribed minimum.

The first organized movement for a minimum wage in this country began about twenty-five years ago under the leadership of the National Consumers League. That league purposed to bring about more satisfactory standards of sanitation, hours, child labor and of wages by persuading the members not to trade with those failing to meet the requirements of such standards. The League found from experience that this method was not effective, and decided that it could best improve the condition of the workers through positive law. Accordingly in 1908 the league made the application through law of the principle of the minimum wage a part of its Ten Year Program.

In 1911 the legislature of Massachusetts passed a resolution requesting the governor to appoint a commission to study the matter of the wages of women and of minors. This commission made a report asking for a law providing for a permanent commission which should inquire into the wages of women in any occupation in the commonwealth, appoint wage boards for each occupation in question, and pass upon the recommendations of such boards. As a result of this report the legislature enacted in 1912 a minimum wage law for Massachusetts, the first of such laws in the United States. Eight states followed by passing minimum wage laws in 1913; two in 1915; one in 1917; The District of Columbia in 1918; two in 1919. The chronolog-

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<sup>1</sup>British Trade Boards Act, 1909, sec. 1.

<sup>2</sup>Factories and Shops Act, 1912, Sec. 175.

ical order of the enactment of the laws in the different states is as follows:

1912—Massachusetts.

1913—California, Colorado, Minnesota, Nebraska, Oregon, Utah, Washington, Wisconsin.

1915—Arkansas, Kansas.

1917 —Arizona.

1918—District of Columbia.

1919—North Dakota, Porto Rico, Texas.<sup>1</sup>

Massachusetts took the lead in minimum wage legislation, but was quite conservative, following rather timidly the cautious footsteps of English experience. A commission was provided which should be permanent and appointive and which should inquire into the wages of women in any occupation when there should be reason to believe that the wages paid to a substantial number of them were inadequate to supply the necessary cost of living and to maintain the worker in health. Upon such information the Commission is authorized to establish a wage board consisting of not less than six representatives of the employers in question and an equal number of female employees and one or more disinterested persons to represent the public. Upon the findings of this wage board the commission may make recommendations as to what the wages should be. If the employers affected by the recommendations should not heed them, the commission may publish their names unless such employers can show that compliance would render it impossible for them to conduct business at a reasonable profit. Like England Massachusetts requires the commission to take into consideration the financial condition of the business affected by its recommendations, being forbidden to endanger either the general financial prosperity of the trade or the reasonable profits of an individual employer. Massachusetts relied upon publicity to constrain offending

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<sup>1</sup>Foreign countries having the minimum wage are: Australia, Tasmania, New Zealand, Great Britain, Alberta, British Columbia, Saskatchewan, Ontario, Manitoba, Quebec, Nova Scotia, France, Norway, Argentine Republic, and Switzerland.

employers to pay the women a living wage. The Massachusetts commission it seems has not published the names of employers refusing to abide by their recommendations, but has rather published some lists of those who have conformed to the requirements suggested by the commission. Two states followed Massachusetts in requiring that the financial condition of the industry be considered, and in refusing to clothe the commission with power to issue mandatory orders. These states were Colorado and Nebraska, both in 1913. The Colorado statute was revised in 1917, and Nebraska has never put any minimum wage into operation. Massachusetts therefore remains the only state in the union in which a minimum wage commission may act only in an advisory capacity, and which is required to take the financial condition of the business into consideration in making its recommendations.

Utah, Arkansas, and Arizona, have prescribed the minimum wage by legislative act. Utah in 1913 fixed the minimum wage for women in all lines of industry at \$7.50 for a fifty-four hour week. Arkansas adopted the same series of state wide rates as Utah. But Arkansas also provided for a commission which might revise the rates by localities or trades whenever they may appear too high or too low. This part of the law was never put into operation. During the war the National War Labor Board found the minimum wage of \$7.50 for a fifty-four hour week still in force and proceeded in August, 1918, to raise the minimum for laundry workers to \$11.00 per week. Arizona, in 1917, passed the most inflexible of the flat rate laws, providing a minimum of \$10.00 a week for all women, of whatever age or experience, employed in manufacturing, mercantile, hotel, restaurant, and office occupations. This type of legislation is simple and inexpensive to administer. Its greatest disadvantage is its lack of flexibility.

In February, 1913, the state of Oregon passed a minimum wage law which in the main has been followed by the majority of the states which have such laws. The Oregon law provides for a commission, which has the power to investigate conditions of employment and wages in an industry,

and to make such orders as to hours of work, conditions under which work may be done, or minimum wages, as in its judgment may be necessary to protect the health and morals of women and minors. Acting under the powers of this statute the commission appointed a board to investigate hours, work conditions and wages as they affected women and minors in manufacturing, and upon the information thus gathered and the recommendations made, it issued an order which among other things required that an experienced woman employed in any manufacturing establishment within the state of Oregon, should receive for her work not less than \$8.64 per week. An injunction was sought and the constitutionality of the act was attacked. The Supreme Court of Oregon decided that it was bound by the judgment of the legislature that it was necessary to invoke the police power of the state to protect the health and morals of women and minors through prescribing a minimum wage, and that in passing this law the legislature had not delegated legislative powers to a commission.<sup>1</sup> The case was carried to the Supreme Court of the United States on the contention that the act violated the provisions of the fourteenth amendment. Justice Brandeis, having been retained as counsel in the case before his appointment as Associate Justice, was disqualified and did not sit in the case. The court was evenly divided, four finding that the Oregon statute was not in violation of the Constitution and four finding it unconstitutional.<sup>2</sup> The members of the Supreme Court being evenly divided the decision of the Supreme Court of Oregon held, and the law was therefore constitutional and valid.

The decisions of the Commission of Oregon are binding upon the employers involved. The orders of the commission are mandatory. Moreover the Oregon law does not require that the financial condition of the business shall be considered. It is required by the law to make its findings and orders in the interest of the health and morals of women and minors. The following states have followed Oregon

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<sup>1</sup>Stetler vs. O'Hara, 139 Pac. Rep., 743.

<sup>2</sup>37 Sup. Ct. Rep., 475.

in creating commissions with mandatory powers, and in limiting their investigations to the interests of the women and children: California, Colorado in 1917 after having followed the Massachusetts model for four years, Minnesota, Washington, Wisconsin, Kansas, The District of Columbia, North Dakota, and Texas.

A minimum wage law for women and minors in Texas was passed by the Legislature on March 12, 1919, was approved by the Governor on April 3, and became effective June 18 of that year.<sup>1</sup> The act established an Industrial Welfare Commission composed of the head of the Bureau of Labor Statistics, chairman, the representative of employers on the Industrial Accident Board, and the State Superintendent of Public Instruction. The Commission was to have

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<sup>1</sup>Note: The following information concerning the history of minimum wage legislation in Texas has been compiled by Miss Octavia Rogan of the State Library:

In 1911 the Texas State Federation of Labor adopted a resolution signed by P. J. Duffy favoring a minimum wage law for the State. The resolution stated that the average wage for working girls in Texas was four dollars per week. In 1913 the Texas State Federation pledged all of its strength and influence to pass a minimum wage law for all women in the event employers should reduce their wages because of the fifty-four hour law. In 1914 the State Federation approved the minimum wage law, and suggested that it be copied from one of the best or that of Minnesota. In 1915 two bills providing for a minimum wage were introduced into the Legislature. The Senate bill was reported favorably out of committee. In 1917 a minimum wage bill was introduced into the Senate. It did not get up for a vote. It was opposed by the Retail Merchants Association. Unsuccessful attempts were made to get the bill introduced at the first three called sessions of 1917. In 1918 the State Federation of Labor adopted as a first preferential measure a resolution demanding of all candidates for the Legislature a pledge to vote for a minimum wage commission so that "women workers may be guaranteed, not a living wage but a wage in keeping with the cost of living and conditions surrounding them in different communities of Texas that will guarantee to them all that is necessary to make life comfortable and happy." In the Democratic Platform for Texas in 1918 is found the following statement: "We favor the enactment of such laws as will tend to improve conditions under which women work, especially to insure them a living wage." At the regular session of 1919 two bills were introduced.

the assistance of a secretary and two investigators, provided they should not cost more than \$1800 each and necessary travelling expenses. The Commission was charged with the duty of ascertaining the wages paid, the hours and conditions of employment in the various occupations, trades and industries in which women and minors are employed, and to make investigations into the comfort, health, safety and welfare of such women and minors. The act defines a minor as a person of either sex under the age of fifteen years. It requires every person, firm and corporation employing labor in the state to furnish to the Commission any and all information it may require, and to permit representatives of the Commission to enter upon their premises for purposes of investigation, and to keep a register of the names, ages and residence addresses of all women and minors employed. The Commission was empowered to hold public hearings, at which time employers, employees or other interested persons might appear and give testimony as to the matter under consideration. It was provided that after a public hearing before any member of the Commission, or before any investigator employed by the Commission, the Commission should have power upon its own motion or upon petition to fix a minimum wage to be paid to women and minors engaged in any occupation, trade or industry in the state, which shall not be less than a wage adequate to supply such women and minors the necessary cost of proper living and to maintain their health and welfare, and to fix the standard conditions of labor demanded by the health and welfare of women and minors so employed. The Commission might in its discretion, make a mandatory order effective in sixty days, specifying the minimum wage and the standard conditions of labor for women and minors in the occupation in question, provided no such order should become effective before November 1, 1919. The Commission may, after a public hearing, rescind, alter or amend any prior order. Provision is made for employment of persons at less than the prescribed minimum by special license granted by the Commission. Such a permit may be granted for only six months at a time, and no more than ten per

cent of the employees in an establishment would be granted the license. This was primarily to make some provision for the inefficient who might be crowded out through the operation of the minimum wage. The Commission may call upon the Labor Commissioner to gather information which may be helpful in enabling them to arrive at a minimum wage or a standard of conditions of labor. For violating an order of the Commission the penalty was fixed at a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment of not more than thirty days in the county jail, or by both such fine and imprisonment. Any employee receiving less than the minimum wage applicable in her case may bring a civil action to recover the unpaid balance with court costs and attorneys fees, even though she had agreed to work for less than the wage prescribed as a minimum. Domestic servants, nurses, student nurses, farm or ranch labor, and students in attendance at schools and colleges, were exempt from the provisions and benefits of the act. The sum of five thousand dollars was appropriated to be used in carrying out the provisions of the act. A further sum of \$13,500 for each of two fiscal years ending August 31, 1921, was added.

### III

We may now raise two questions. Is the minimum wage legislation necessary? Is it expedient? In support of the claim that such a law may be necessary, it is argued that there is a maladjustment of the supply of and demand for unskilled female laborers. The demand for unskilled women in industry and in commerce is a decentralized demand. There is no way of knowing how many women are wanted in the various employments of the country. There is no way of knowing how many women are needed in the shops, mills, stores, hostleries, and offices of any state, or of any city. Each employer as a rule acts alone, and without reference to others in seeking unskilled labor. Two stores in the same block handling identical lines, ordinarily act independently of each other, and may offer different wages for the same

kind of work. If a woman wants a position in a department store, even though there may be a dozen such stores in her city, or a hundred in her state, there is no one agency to which she can apply in order to know if her services may be desired in any one of these stores. Instead she must go from store to store. In her wanderings in search of employment, she finds that firms pay differing wages for a certain grade of help. Each store, each shop, each place of employment is ordinarily going it alone as an employer, and those desiring employment must as a rule seek it from place to place.

Moreover, the supply of unskilled female labor is decentralized. There is little effort to mobilize such workers. There is no card index giving names, addresses, and qualifications of all of the women available for employment in the city or the state, to which an employer may go when in need of a larger force. Instead the employer advertises or by means of his own attracts applicants to his place, from whom he selects those wanted. Those not taken lose car fare, time, and self-respect, and sometimes hope. The fact that there is a job in the place around the corner from the one which rejected an applicant may be unknown to the defeated candidate, and she in her disappointment may not have the courage to go into a place about whose needs she has no information. If a woman seeks a place which pays twelve dollars a week and fails to get it, and then goes to another employer who has identical work to be done, but offers her but ten dollars per week, it is of no assistance to her that the employer across the street is paying two dollars a week more for that work. The demand in one place is separate and apart from the demand in the other place.

Then the supply of women workers is relatively immobile. A woman cannot tramp about from community to community in search of employment. She must get employment as a rule in the place of her residence. If she be a woman adrift, she has no way to know the facts about opportunities for employment in other communities. Only accident, or the interest of a personal friend may aid her in getting a place in another town. To the unskilled worker, car fare is quite

an item. She is discouraged sometimes from seeking employment beyond walking distance from her residence. But distance from work is of more importance than car fare. The time consumed in riding to and from work is in effect added to the working day. There are difficulties in moving from one part of a city to another almost comparable to those of moving from one town to another.

Again a woman is a poor bargainer for a job. Her psychology unfits her for such bargaining. As a girl she has usually looked forward to marriage. She has been taught that it is for men to choose their wives, while the woman chosen has a veto upon the choice of her suitor. But in business she cannot wait for the job to come courting her. She must go out "boldly" and make the proposal to the job. Diffident, timid, shrinking, without experience, without skill in any work, conscious of her ignorance of all that goes under the name of business, she must approach a well informed, astute, and strange man, who may or may not have control of work which she could learn to do. Moreover, it is necessary that she have work, else she would not as a rule seek gainful employment. Her support in part or in whole, perhaps the support of others, depends upon her success in obtaining and holding a position. There is an irreducible minimum of subsistence below which she cannot go. If she cannot earn enough to pay for this subsistence, she must become the recipient of charity, or perhaps lose her health and strength to work. If she cannot get a living wage, she must take less than a living. For something toward meeting unavoidable expenses is better than nothing. If she find an opening with ever so low a wage, she is likely to be afraid to reject the place, not knowing that she could do better, and fearful she might do worse.

In contrast with the weak bargaining power of the inexperienced women, is the strong bargaining power of the employer. The greater the number of his employees, the greater his relative advantage as a bargainer. He is well informed, he knows much about the supply of women workers. He can easily do without any one of his unskilled employees. If he employ a hundred such, there will be lit-

tle difference between what he can get from ninety-nine, and what a hundred would do. If he employ a thousand, the relative importance of a single individual is much less. The employer can often be indifferent. The woman feels that she must have employment. Her comfort, her health, perhaps her life, as she sees it, depends upon her getting a position. When so much is at stake on one hand, and so little on the other, there is vast difference in bargaining power.

Then there are often strong reasons urging the employer who has such an advantage to be a hard bargainer. His competitors may be cutting prices, and to meet their competition he may seek to keep wages down or to reduce them. Perhaps his competitor is paying low wages and he decides that he can attract customers only by meeting the prices of the employer who "sweats" his employees, and that to do that he too must transform his establishment into a sweatshop. Or a given employer may not be a successful organizer of his business. For some reason he may be failing. A hard pressed employer is the strongest bargainer for labor. He cannot pay current or living wages and stay in business. Self preservation drives him to keep wages down. No unskilled woman has the ghost of a show in bargaining for a living wage with such an employer. Another type of hard bargainer is the one dominated by greed or avarice. Out of sheer lust for gain such employers "sweat" the defenceless and helpless women who feel that of necessity they must accept employment under such employers.

What are some of the effects of this maladjustment of demand for and supply of unskilled women workers? First is low wages for such women. An investigation of the payrolls before the war revealed that of the women and girls employed in eight department stores in Chicago, 6.2 per cent earned less than \$4.00 per week; 23.3 per cent less than \$6.00 per week; 53.4 per cent less than \$8.00 per week.<sup>1</sup> From investigations of the salaries of women and girls employed in stores in New York, Chicago, Philadelphia, St.

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<sup>1</sup>This information is given in an article by Professor H. A. Millis in the *Journal of Political Economy*, Vol. XXII, page 132.

Louis, Boston, Minneapolis, and St. Paul, the Federal Bureau of Labor found that in these seven cities of those living with their families, 34.6 per cent earned less than \$6.00 a week; and 68.7 per cent were earning less than \$8.00 a week. Of those "adrift," 19.3 per cent earned less than \$6.00 a week; and 58.6 per cent were receiving less than \$8.00 a week.

While the wages in stores were low, those paid women and girls in factories, where they were not attracted by social opportunities, nor by the desire to be well dressed, were even lower. It was found that in the manufacturies of men's clothing in New York, Rochester, Philadelphia, Baltimore, and Chicago, where this industry is extensively localized, 49 in every 100 earned less than \$6.00 a week. In Chicago they averaged \$7.15 a week; in Rochester, \$6.95; in New York, \$5.74; in Philadelphia, \$6.00; and in Baltimore, 4.82. The Massachusetts minimum wage commission found in 1910 earning less than \$6.00 per week 62.2 per cent of the women over eighteen years of age in candy factories; 29.5 per cent of those in retail stores; 40.7 per cent of those in laundries; 37.9 per cent of those in cotton factories. For those earning less than \$8.00 per week the percentages were 93.1 in candy factories; 60.4 per cent in retail stores; 75.1 per cent in laundries; and 66.8 per cent in cotton factories.<sup>1</sup>

<sup>1</sup>The following table prepared by the Bureau of Labor Statistics and published in the *Monthly Labor Review* for October, 1919, indicates how the expenses of living have increased since 1914:

Per Cent of Increase in Cost of Living Since July, 1914:

Month and Year	18 Shipbuilding Centers	Other Cities and Towns	Country as a Whole, Excluding Agricultural Communities
December, 1914...	2	2	2
June, 1915.....	2	2	2
December, 1915...	3	3	3
June, 1916.....	9	9	9
December, 1916...	17	17	17
June, 1917.....	30	27	28
December, 1917...	44	39	41
June, 1918.....	60	53	56
December, 1918...	76	67	72
June, 1919.....	80	70	75

June, 1920, retail prices of food in forty-five cities had increased 215 per cent over June, 1914. *Labor Review*, Jan., 1921, p. 92.

The average earning of women workers throughout the United States in 21 industries was<sup>1</sup>:

Industry	No. of States	No. of Employees	Average hours worked per week day	Average earnings per hour worked	Computed average earnings per week if 6 days were worked
Glass .....	9	1,903	7.3	\$0.231	\$10.12
Confectionery .....	19	11,176	7.4	.231	10.25
Furniture .....	12	915	8.1	.214	10.40
Boxes, paper .....	10	4,297	7.5	.242	10.89
Chemicals .....	16	710	7.5	.272	12.24
Overalls .....	19	6,439	6.7	.305	12.26
Hosiery and underwear	15	13,374	7.6	.286	13.04
Leather .....	8	1,054	6.9	.317	13.12
Pottery .....	4	1,115	6.8	.324	13.22
Paper and pulp.....	14	1,947	8.0	.278	13.34
Typewriters .....	10	3,433	7.8	.300	14.04
Electrical machinery..	8	1,618	7.6	.322	14.68
Clothing, men's .....	9	9,725	7.3	.338	14.80
Cigars .....	10	11,278	7.6	.326	14.87
Rubber .....	9	3,420	7.6	.326	14.87
Iron and steel.....	2	159	6.1	.419	15.34
Silk .....	7	5,608	7.8	.335	15.68
Machine tools .....	6	154	7.7	.345	15.94
Clothing, women's ...	7	6,782	7.4	.368	16.34
Automobiles .....	7	622	7.8	.380	17.78
Total.....	32	85,812	7.5	.301	\$13.54

The Labor Department of Texas in 1916 made an estimate that one-half the women workers of Texas were receiving at that time less than six dollars per week; that many were receiving only four dollars; and some as little as three dollars.<sup>2</sup>

A second effect is a big turnover of unskilled labor as recruited from the ranks of the women. At the best the turnover of female is greater than that of male workers. Women pass out of industry into matrimony, and many of them come back to industry as more or less regular workers.

<sup>1</sup>See Bulletin No. 265. Industrial Survey in Selected industries in the United States, 1919, published by the United States Bureau of Labor Statistics, May, 1920; also "Earnings of Women in Factories" by National Consumers League, January, 1921.

<sup>2</sup>Biennial Report of Texas Bureau of Labor Statistics, 1915-1916, p. 13. *Ibid*, 1917-1918, p. 28.

Low wages, and poor adjustment of labor demand to labor supply tends to increase the turnover. There is less incentive to work for a hard bargaining employer at a low wage, than there would be if wages and conditions were more satisfactory. The expense of an avoidable labor turnover is considerable. There is the cost of hiring the woman; then the cost of training her; the cost of materials destroyed in the learning process, and of extra power and reduced output by reason of inexperience of beginners, greater wear and tear on machinery; the cost of an increased number of accidents due to greater carelessness or less competency of learners; and the expense of making replacements and adjustments because of defective goods sent out, and the consequent loss of good will and business.<sup>1</sup>

A third result is a lowering standard of living. Low wages will not meet the requirements of a very high standard of living. Native born American women find themselves in competition with foreign women, who have been accustomed to a low level of existence. After being compelled for a number of years to eke out a mere existence women often become confirmed in an abnormally low standard of living. Such a situation is pathological, and is apt to perpetuate itself through the influence of these crushed women upon those about them.

In the fourth place, the poor wages and uncertain employment resulting from this maladjustment tends to keep the efficiency of the women workers from reaching the standards easily possible under more favorable conditions. And this lack of development in turn helps to keep the woman in the ranks of the unskilled.

A fifth undesired effect is the development in many instances of bitter feeling among the women workers against the employing class. The writer has listened to such women

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<sup>1</sup>Sumner Slichter: *"The Turnover of Factory Labor,"* p. 108.

at public hearings as they gave expression to discontent, bitterness of feeling, and even hatred of employers, which was apparently due to years of disappointment, and to the long grind of unremunerative toil, and not so far as could be ascertained to the specific act of any particular employer. What could be less desirable than for a large number of citizens to feel that they are suffering from injustice, and to entertain thoughts of rebellion against an order in which they think of themselves as victims?

A sixth consequence which may be mentioned is immorality. Most social workers testify that there is a connection between immorality and low wages. The investigations of this problem have been fragmentary and unsatisfactory, and have usually taken the form of compiling the opinions of those who seek to help fallen women. The writer is inclined to believe that virtue is a much prized and as carefully protected in poverty as in riches, and cannot commit himself, in the absence of any dependable investigation of the facts, to the proposition that want drives women from the paths of rectitude.

It is too much to claim for one remedy that it will cure all the ills that flow from the maladjustment we have been considering. The factors are too many, the problems too complex, for one legislative act to promise a complete solution. But no claim is made for the minimum wage laws that they leave nothing further to be done. The most that is claimed is that the situation is so grave, that unskilled women are at such a disadvantage in bargaining, that employers are so often driven by circumstances to be hard bargainers even against their will, that it is necessary to invoke the police power of the state and prescribe a minimum below which no employer would be permitted to engage the services of a woman or of a child. The responsibility for promoting the general welfare, and for protecting the defenceless is clearly that of the representatives of the people in the legislature.

It may be asked if such a law is expedient? If its enforcement is practicable? Would its enforcement entail so heavy a burden upon industry as to close the doors of factories and of shops and thus drive employees into the street? Or would it discourage enterprise and bring a depression of business, or so curtail profits that able men would no longer be attracted to undertake new enterprises? If all the states would enact and enforce minimum wage laws, it is likely that five million women would be affected. Their wages would probably be raised as much as six dollars per week on an average. That is to say the pay roll of the country would be increased thirty millions a week or one billion and five hundred million each year. At first glance it would seem that this is a large sum. But when we consider that it will be distributed over the entire country, through business of every variety from the small shop to the great factory, it does not appear so formidable. The excess profits tax last year and the federal income tax amounted to \$3,944,000,000. The gains to business from the increased efficiency of better paid, better fed, better clothed, better housed, more content, and more loyal employees would greatly reduce the actual cost of such an increase.

In Texas about 200,000 women would be affected. If a minimum really providing a living wage were enforced, the average increase would likely be about \$5.00 a week for each of those women. That would be an addition of \$1,000,000 to the weekly pay roll, and \$52,000,000 to the annual wage bill of Texas. Texas last year paid \$103,000,000 federal taxes.

The effects of the enforcement of a minimum wage in Texas will be very much those that have been and are being realized in other states which are enforcing such measures.

First there will be a tendency of the women in the trades regulated to organize. Once their bargaining power is strengthened by exercise of the police power of the state in their behalf, they will be encouraged to organize and further strengthen their power in bargaining. A second result will be the lowering of the wages of some who now receive more than a minimum wage. Employers will be able to recoup

some of their losses from the increase of those now receiving less than a living by cutting down in some instances the wages of those receiving more. Third some forms of business in competition with establishments in other states which have no minimum wage laws, would find themselves harder put to it to meet with success their competitors in the market. At certain points business would perhaps be injured.<sup>1</sup> Fourth, in some cases the increase in wages could be shifted in the form of higher prices to the consumer, and the cost of living might be somewhat increased. Fifth, some, but very few, now employed would be forced out, because they are not worth to their employers as much as a living wage. Society would have to face more squarely the problems of the unemployable, and of the defectives. Sixth, wages would be more standardized, and the exploitation of women would be checked. Seventh, various petty annoyances, as fines, penalties, charges for services that would go along with the job, would perhaps be eliminated. Eighth, men would to a certain extent be protected from the underbidding of women. Ninth, all this would result in fewer disputes. Tenth, there would be a great saving from reduced turnover. Eleventh, there would be a decided increase in the productivity of the workers affected. Twelfth, the welfare of the women would be tremendously improved. The increase in health, contentment, and happiness would be incalculable. Thirteenth, there would be a resulting goodwill, which would show itself in reduced costs per unit of product. Fourteenth, there would be a decided check to the spread of radicalism. The reds, and I. W. W's. thrive upon discontent, bitterness, and wretchedness. Sufficient food and reasonable comfort are deadly to much radical propaganda.

#### IV.

As we have seen, the minimum wage legislation is based upon the assumption that a normal woman should be able to earn enough to support herself. The statute in Texas

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<sup>1</sup>H. A. Millis, *loc. cit.*

clothes the Industrial Welfare Commission with power, after investigation, to fix a minimum wage for women and minors which shall not be less than a wage adequate to supply the necessary cost of proper living and to maintain their health and welfare. The questions at once arise, what constitutes a proper living? How determine the necessary cost of proper living? Shall it be assumed that women and minors already have a proper living provided for them and that they merely work for extra money; or that those living at home get a living for much less than it would otherwise cost? Or shall it be assumed that such workers whether living at home or adrift should receive enough for their work to enable them to pay others from their wages for a proper living? Or should it be assumed that women and minors may have dependents to whose support they must contribute, before having anything to apply to the expenses of their own living?<sup>1</sup>

1. There are some who contend that women and minors do not have to work and that whatever they may receive is so much gain for them. Perhaps some may contend that society should assume the responsibility for the training and support of minors in the absence of ability of parents to discharge these responsibilities. But it could hardly be maintained that society is under any obligation to support a normal adult woman. Should such a woman be treated as one who does not have to depend upon her efforts for support? Do many women work for mere pin money? There are many women who do not live at home for the simple reason that they have no homes. Then many of the working women who do live at home find it necessary to contribute to the family budget. The Bureau of Labor found that in Chicago 78.7 per cent of the girls working in stores contributed all their earnings to the family fund; that 81.3 per cent of those employed in factories made such contributions. Many of the girls who testified before the In-

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<sup>1</sup>The question of cost of living for working women, is admirably discussed by Dorothy Douglas in the *Quarterly Journal of Economics* for February, 1920.

dustrial Welfare Commission of Texas stated that they turned their pay checks over to their families. Women do not as a rule go out and work in gainful occupations except from necessity. If they did, if no woman needed gainful employment, why should they receive for their work less than a living wage?

2. It is argued that the living expenses of those who are with their families is much less than if they were alone. A majority of the women receiving low wages do live at home, and share the benefits of the household economy. This joint costs theory is held by those who would justify the establishments which seek only such female employees as live at home, and pay them less than would be required if they did not draw a part of their support from a cooperative institution, the family.<sup>1</sup> What are the advantages of the household economy to the working girl? Some of the more obvious are: (1) free room. The rent is paid for the family, and would have to be paid if the daughter were not at home. This assumes that no larger or better house is wanted by reason of the daughter's presence. (2) Free service on the part of those cooking and serving the meals. (3) Much free laundry. (4) Much free sewing and mending. But why are such important services as cooking, sewing, and laundrying, free to the young women at home? Only because some other member of the family, usually the mother, renders these services. Such services would cost several dollars each week, if rendered by someone from the outside. They are no less valuable because rendered by one on the inside of the family group. The housewife and mother toils week after week at indispensable tasks; her services constitute a large portion of the real income of the family. She often takes the least from the income. Her toil and her sacrifices do much to create the "advantages of household economy." Why should those benefits not accrue to the family group, whose cooperation made them possible? Why should a part of them be transferred to employers?

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<sup>1</sup>F. W. Taussig: "Minimum Wages for Women," *Quarterly Journal of Economics*, May 1916, pages 411-442.

Why should employers of the daughter get the benefits of the services which mothers render without pay to their daughters ? Why should not the daughters for whom the services were rendered receive the advantage? Or why should they not be able to lighten the burdens of the mothers and add to the fullness of their lives by paying something for the services?

Mrs. Douglas estimates that the advantage to the young woman who lives at home by reason of her sharing the benefits of the household, amounts to about \$1.25 per week.<sup>1</sup> But it is pointed out that most of the low paid women come from very poor families. That the family in many instances is submerged and has a standard of living below what is required for good health. In such cases the girls would likely have to spend the \$1.25 saved by living at home, for food to supplement the home diet. Those families most need extra income to enable them to live decently. Then thrift might be preached to them if they could by reaping for themselves the advantages of household economy increase the margin from which savings might be made.

3. Again there is the theory that while a woman is working away from home, she should receive enough to support her away from home. That regardless of where or with whom she lives, she should receive enough for her work to support her if she should chose or find it necessary to live alone. This is the temporary dependence theory. This is the theory held by most of those who have to do with fixing minimum wages. The necessity for a woman's taking gainful employment is in most cases temporary. The majority of such women do eventually marry. This theory is that while a woman is at work she should receive enough to support her independently of aid which might be extended by her family, by subsidized boarding or lodging houses, or any form of charity.

4. Another group claims that the standard woman, for whom a proper living should be provided from the minimum wages paid, is the one who is permanently dependent upon

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<sup>1</sup>*Quarterly Journal of Economics*, Feb. 1920, p. 246.

her individual efforts. That she must receive enough not only to keep her from day to day, but to sustain her in long illness, and in old age after her usefulness as an employee has practically vanished. The objection to this is that the minimum guaranteed by law might be regarded as adequate, and incentive to self improvement in order to increase one's productivity and usefulness would be destroyed, or not sufficiently stimulated. The minimum wage should not be the standard wage, nor should it be regarded as sufficient in itself. The state in prescribing such wages has in view the health and welfare of the worker who is employed while employed. It is to be expected that workers will try to deserve promotion above the minimum, and from increased earnings provide for the needs of those permanently dependent upon their own efforts.

5. Others go so far as to urge that the minimum wage should enable a woman to support herself and a family. This theory does not seem to be socially or economically defensible. Socially it is better for the burden of support to be upon the husband and father. The mother has enough to do to train and look after the growing children. If she lose her husband, then instead of sending her to work at high wages, it would be better to give her a pension outright during the years she would be required to devote to her children. The ordinary woman has no dependents, and the state is using the police power to protect her during the first years of her employment, it being assumed that if she continues to be employed that she may get to where she can command more than a mere living. It is assumed that having a living assured, the women will by their own initiative and development, and by cooperating among themselves, improve their condition and advance their interests. A minimum wage does not interfere with the promotion of the exceptional woman. It will in no way interfere with the struggle of women for better wages, hours and working conditions. It merely protects the helpless. It is designed to keep hard pressed or greedy employers from taking advantage of the ignorance, or helplessness of normal adult women. But for the state to step in and say that the min-

imum wage must be sufficient to support a widow with a large family of children, would be to legislate most women, widows included, out of employment. It would be in effect turning the whole matter of fixing wages over to the state, and leaving little to the judgment of the contracting parties.

Taking as the standard woman for whom a wage must provide a living, the one who is working away from home, who has no dependents, and who must be sustained during the period of her employment, the question arises what would constitute for her a proper living? This problem has been attacked by wage boards and by investigators in different parts of the country. The usual method has been to make out a minimum budget for a single woman living alone.

The following budget was submitted by representatives of the public in the District of Columbia:

#### EXPENSES

Clothing .....	\$ 4.11
Board and Room.....	9.00
Sundries:	
Laundry .....	1.00
Sickness .....	.35
Dentistry .....	.14
Oculist .....	.07
Amusements .....	.18
Vacation .....	.25
Savings and Insurance.....	.50
Charity .....	.03
Religion .....	.09
Labor Organization .....	.08
Other Organization .....	.05
School Tuition .....	.03
Car fare to and from work.....	.60
Other car fare.....	.25
Books and magazines.....	.07
Other incidentals .....	.35
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Total per week.....	\$17.15

The Industrial Welfare Commission of California on April 22, 1919, fixed a minimum wage in mercantile industries of \$13.50 a week, and on May 12, 1919, in the fruit and vegetable canning industry a piece rate scale that will yield not less than \$13.50 per week. These orders of the California Commission were based upon the following budget:<sup>1</sup>

Board and Room .....\$429.00

Shoes (3) .....	\$18.00	
Corsets (2) .....	7.00	
Petticoats (3) .....	6.50	
Stockings (12) .....	6.50	
Nightgowns (3) .....	4.50	
Underwear .....	10.50	
Dresses .....	20.00	
Coat .....	24.00	
Suit .....	33.00	
Sweater .....	4.50	
Hats .....	15.00	
Gloves (2) .....	4.50	
Handkerchiefs .....	2.00	
Kimona .....	2.00	
Waists (4) .....	10.50	
Umbrella .....	1.50	
Rubbers .....	.75	
		Clothing .. 170.75

Toilet articles .....	15.00	
Medical and dental.....	25.00	
Vacation and Amusement.....	20.00	
Laundry .....	15.00	
Car fare.....	31.20	
		Sundries .. 106.20

Total.....\$705.95 for year

Total..... 13.57 for week

<sup>1</sup>Katherine Philips Edson: Leaflet, "A Study of the Cost of Living."

**THE COMMONWEALTH OF MASSACHUSETTS**  
**MASSACHUSETTS MINIMUM WAGE COMMISSION**  
 ITEMIZED COST OF LIVING BUDGETS  
 (As Voted by the Massachusetts Wage Boards)

	Brush Board (January, 1914)	Candy Board Summer, 1914	Laundry Board Winter, 1916	Women's Clothing Board Spring, 1916	Mens Clothing Board Spring, 1917	Mens Furnishing Board Summer, 1917	Muslin Underwear Board Winter, 1918	Retail Millinery Board Spring, 1918	Office Cleaners' Board Spring, 1918	Wholesale Millinery Board Fall, 1918	Canning and Preserving Board Spring, 1919	Candy Board Spring, 1919
Board and Lodging.....	\$ 5.25	\$ 5.25	\$ 5.25	\$ 5.75	\$ 5.50	\$ 6.00	\$ 6.00	\$ 7.00	\$ 7.00	\$ 7.00	\$ 6.00	\$ 7.00
Clothing.....	1.44	1.50	1.50	1.50	1.90	1.75	1.50	1.92	1.75	2.00	2.25	2.25
Laundry.....	.50	.45	.50	.25	.35	.30	.25	.30	.30	.50	.30	.50
Car Fare.....	.70	.60	.60	.10	.40	.60	.60	.60	.60	.84	.25	.76
Doctor and Dentist.....	.20	.25	.25	.25	.25	.20	.40	.20	.45	.30	.35	.30
Church.....	.10	.11	.11	.10	.10	.10	.10	.11	.13	.13	.15	.11
Newspapers and Magazines.....	.16	.11	.16	.18	.15	.15		.11	.11	.18	.20	.18
Vacation.....	.19	.20	.20	.25	.25	.35		.35	.25	.40	.40	.40
Recreation.....	.17	.20	.20	.25	.25			.25	.20	.25	.30	.30
Savings.....				.25	.50	.25		.25	.25	.30	.30 <sup>2</sup>	.30 <sup>2</sup>
Incidentals.....				.10	.20	.50	.60	.25	.35	.25	.25	.25
Organization Dues.....					.15	.15	.20					
Insurance.....						.10		.10	.15	.10		
Self-Improvement.....						.10		.20		.25	.25	.15
Total.....	\$ 8.71	\$ 8.67 <sup>1</sup>	\$ 8.77	\$ 8.98	\$ 10.00	\$ 10.45	\$ 9.65	\$ 11.64	\$ 11.54	\$ 12.50	\$ 11.00	\$ 12.50

<sup>1</sup>\$8.75 was voted unanimously by the Candy Makers' Wage Board from the above budget as the necessary cost of living, allowing 8 cents extra for miscellaneous requirements.

<sup>2</sup>The Canning and Preserving Wage Board and the Candy Wage Board included insurance in the figure given for savings.

The following budget was prepared by Mrs. Dorothy W. Douglas of the University of Washington:<sup>1</sup>

### FULL "TEMPORARY INDEPENDENCE" BUDGET

#### Minimum Weekly Rates

Boarding	At Home
Room, board, lunches, and partial laundry .....\$9.05	Daughter's share of house-keeping expenses, plus mother's services .....\$7.80
	Daughter's subsidy to family. 1.25
	<hr/> Total.....\$9.05
Clothing (\$130.00 a year).....	\$ 2.50
Toilet articles, soap, etc., (\$5.20 a year).....	.10
Car fare (10 cents a day).....	.60
Health (\$21.00 a year).....	.40
Stamps and Stationery (25 cents a month).....	.06
Amusements (movies, ice cream, etc.).....	.35
Net Cost of vacation.....	.15
Education (papers and magazines).....	.15
Extra car fare (10 cents every two weeks).....	.05
Dues .....	.05
Church and charity.....	.15
Christmas presents (\$3.65 a year excess over presents received).....	.07
Insurance (\$13.00 a year).....	.25
Other expenses (unforeseen).....	.07
Loss of wages (one week's illness \$15.00).....	.30
Loss of wages (one week's vacation or unemployment).....	.30
Savings (\$21.00 a year) .....	.40
	<hr/> Total.....\$15.00

<sup>1</sup>*Quarterly Journal of Economics*, Feb. 1920, p. 258.



From the above studies a fair estimate may be made of what is required to support in minimum comfort the single woman.

## V.

The Industrial Welfare Commission of Texas organized as soon as the law became effective. It decided to hold sessions on two afternoons of each month. Investigators were employed and instructed to secure payrolls of employers in mercantile and manufacturing establishments, in laundries, telegraph and telephone exchanges. They were also required to find the cost of living of women and children employed in these four classes of business. The payrolls were sworn to by the accountants of the employing establishments under investigation. The commission was able to find out what women and children were being paid. They asked the employees to estimate what it cost them to live each year. This part of the investigation did not bring together well established facts, but rather a series of best guesses. One must feel that these estimates were often too large or too small according to the limitations of the person seeking without memoranda to recall the increasing expenditure for one entire year. The budget submitted by the investigators was not adequate, and failed to remind the employees of many items which would properly appear in a minimum budget. Very few were found who kept an account of personal expenses. The table submitted above as prepared by the investigators for the Welfare Commission is not the result of a scientific study of living expenses. Knowing these facts as to the method of its compilation, one must decide for oneself how valuable it is.

Beginning in October the Commission held a series of public hearings from time to time in Houston, Waco, San Antonio, Tyler, Dallas, El Paso, and Austin. The hearings were informal. Usually one day was given to employees, one to employers, and one to any of the public who might be interested, as social workers. The employees as a rule had no spokesman. The investigators would bring them in, or

employers would send them. They were asked such questions as how much they earned, how much was required for them to live, sometimes being asked to specify expenditures by item. On the whole not much was brought out in the public examination of employees which had not been gathered by the investigators.

The employers usually had a spokesman, often one of the local business men. They would present briefs calculated to show what it cost to live in the locality, or how much the business had to meet in the way of outside competition. As a rule not much was learned from them. But their pleas got into the papers and were more convincing reading than the haphazard statements made by miscellaneous employees. The social workers were usually matrons of subsidized rooming houses, such as the Y. W. C. A., police matrons, or teachers. Their testimony showed something of the number of delinquent girls and opinions of those dealing with them as to the causes of their lapses. Such testimony was worth little to the Commission in making up an opinion as to what a minimum wage should be.

These hearings were supposed to attract the attention of the public to the need for a legal minimum wage. The employers, however, made better use of the opportunities for moulding public opinion than did the Commission. Without appearing to oppose the law, or the principle of the minimum wage, they were able to convince the public that the present law is unworkable.

The Attorney General ruled that the Commission may not under the law divide the state into zones, but that a minimum wage announced for an industry must apply to all in that industry throughout the state. The employers took the position that a wage adequate in a small town would be inadequate in a city, and that a minimum high enough for the city dweller would be ruinous to industry and commerce in a small town. They submitted very little evidence to support their position, but they did not need to go that trouble. In fact the Commission did not insist upon evidence, but listened to lawyers argue the general proposition. The press took up their plausible theory, and editorials appeared

in its support. Members of the legislature, especially of the state senate, were appealed to by employers for fair treatment, and they too in the absence of arguments to the contrary subscribed to the employers' proposition that the law is impracticable and a majority of them signed a petition to the Commission to defer action until the legislature could meet and correct the law. At a special session of the Legislature in June, 1920, a joint resolution was passed asking the Commission not to act under the present law.

In the meantime the Commission had assembled payrolls from all parts of the state. They found that women in small towns are better paid than in cities, though employers had been arguing that the cost of living is so much more in a city that wages there have to be so high as to be well nigh prohibitive to the small town business man. There is nothing surprising in the fact that better wages are paid in the smaller places. In a town the employer knows personally his employees. He and their families are acquaintances, perhaps friends. Out of personal relationship a better wage develops.

In the city the employer does not, in many instances, know his employees. He deals with them impersonally through a labor manager who is supposed to get them for as little as possible. Consequently wages are beaten down in the cities, where cost of living is higher, below what is paid in the smaller places, where it does not cost so much to live. But the Commission did not get this information across to the people. In fact the majority of the employers interested do not know these facts, but accept in the absence of better information the general proposition upon which the purposes of the law have thus far been defeated.

However, the Commission is not to be censured. If it has appeared timid and slow, this has been due to the fact that the law conscripted the commissioners. They are ex officio members. They are busy with the duties of their other offices. Their primary interests are in the work of their particular offices. Without any further remuneration they were required to take on this extra responsibility. Then the law imposed upon them the burden of finding and of fixing

all the minimum wage rates in the different occupations. No subsidiary boards were provided, such as function in Massachusetts. The task is great enough to require a separate commission appointed and paid for their separate work. Then they should have authority to appoint wage boards for different industries in different parts of the state.

The Commission on November 20, 1920, ordered a minimum wage of \$12.00 for a week of forty-eight hours, effective February 7, 1921. On January 31, 1921, at the request of a joint committee of the Legislature, the time for the order to become effective was postponed until March 14, 1921. This was to give the Legislature an opportunity to amend the law.<sup>1</sup>

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<sup>1</sup>The legislature passed two bills, one repealing the existing law, the other providing a new minimum wage law. On March 30 the Governor signed the bill repealing the existing law, and vetoed the bill providing a new law. This leaves Texas without a minimum wage law. In the next number of the *Quarterly* a note will review what the legislature did and set out the Governor's reason for vetoing the bill which was designed as a substitute for the law that was repealed.

## THE RELATION OF ECONOMICS TO HISTORY

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Traditional divisions of scientific fields, some one has said, are as hard to get rid of as boundaries on a map. For example, we still have seven liberal arts; though as a matter of fact the number might be multiplied five or six fold and still leave several subjects unaccounted for. In this day of specialization and with an ever increasing mass of fact, such divisions are more or less necessary for purposes of scientific treatment. But while we may recognize the specialist's method of work as essential, it is quite another thing to regard him as having a monopoly of the phenomena with which he works. This point has been so well maintained by our sociologists in recent years that few will challenge it; certainly not in so far as it applies to the so-called social sciences.

The scope of history until quite recently has undoubtedly been too narrowly limited. The so-called "drum and trumpet" history and the mere narration of political events occupied a place in our histories to the exclusion of most all else. In the last generation, however, there has grown up in this country and in Europe a group of historians like Turner, Shotwell, Hayes, Hodder, Dodd, Becker, Beard, and others who have done much in their seminars and in their writings to emphasize the importance of social and economic factors in history. Nevertheless, Freeman's famous motto "History is past politics and politics present history" might still be written across the title page of many of our histories; and far too many of our historians and teachers still measure off man's past with the yardstick of dynasties and fill their pages and recitation periods with wars and rumors of wars and with the dry chronicling of the political issues of Whigs and Tories, Republicans and Democrats, and give but slight attention to the economic and social conditions which made these issues potent.

Until recently the social and economic field has been left to others, largely to the economists. And it was for this reason that the importance of such an event as the Industrial Revolution was so long unseen by the historian. It was an economist, Arnold Toynbee, who first pointed out the historical significance of this great movement and placed it in proper historical perspective. But his treatment left much to be desired, and it is really only in the last decade that this revolution which Professor Shotwell declares was the greatest event in the world's history<sup>1</sup> has received anything like its proper share of space in our histories at the hands of historians. Cunningham, to be sure, had treated the period at some length in his great work on *English Industry and Commerce* but he was interested mainly in doctrines and in substantiating theories on mercantilism and the laissez-faire system rather than in the facts themselves. But economic facts do not exist merely to substantiate doctrines or to derive laws of consumption or theories of value. They are also the dynamic forces of history and set in motion great movements that affect the very course of civilization itself. No fact or event stands by itself alone, nor can one separate the environment and forces of life into exclusive compartments. And the specialists who deal with one thing at a time to the exclusion of everything else are dealing with mere abstractions which have never existed anywhere outside their own mind.

What relation then has economics to history? Let us keep in mind in the discussion of this question that neither of these subjects is necessarily subordinate to the other. It is our purpose rather to see how they can be made mutually helpful and how one may be drawn on to supplement the other. That many historical movements such for example as the French Revolution or the more recent Great War are closely associated with economic conditions, and that on the other hand many economic principles or theories can be best understood only when viewed from the his-

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<sup>1</sup>J. T. Shotwell, "Social History and the Industrial Revolution," Repts. Assn. Hist. Teachers of Middle States and Md. 1911, p. 6.

torical standpoint, no one will deny. It is with this phase of the question rather than any deeper discussion of the interdependence of these two subjects that teachers are mostly interested.

It can readily be seen that the teaching of history furnishes many opportunities for the introduction of economic material and much has been said and written in recent years about the so-called economic interpretation of history. While this point of view is very helpful and illuminating, we must constantly be on our guard however lest in emphasizing the economic side the other phases may be overlooked. This brings to mind an article by Professor Chamberlain of the Geology Department of the University of Chicago which appeared some years ago entitled "A Multiple Working Hypothesis." The main point emphasized in this article, which Professor Turner always urged his seminar students to read, was the danger in attempting to explain any event by any one particular cause, or in becoming the champion of any particular theory. For the moment we adopt a theory we become a father to it, pet it and humor it, and are blind to its faults and strong in its defense. Someone criticizing the emphasis that has been placed on the influence of geography in history in recent years has said "that when England has become a memory and Holland a myth, the advocates of geographical environment will find in the rocks and the chilling mists of New England the forces that created the Puritan conscience and dwarfed his emotion."<sup>1</sup> So then the use either of economics or geography in interpreting history must be balanced with some common sense. For historical movements are so numerous and complex and the material at hand lends itself so readily to preconceived economic theories that false historical perspective and distorted views of history may easily result. On the other hand it can not be doubted that one set of causes is economic just as another set is personal or psychological. That the economic set is the chief or the only set may reasonably be doubted but that it is a set must

<sup>1</sup>E. D. Adams, *The Power of Ideals in American History*, p. x.

be admitted. Who for example can say just what caused the overthrow of Napoleon? We can be quite sure, however, that it was not the hollow squares of Waterloo as much as it was the Continental System and the thousand million "iron slaves" which Robert Owen estimated the Industrial Revolution had set to work in the English mills at Manchester and Birmingham by the end of the Napoleonic wars.<sup>1</sup> Again, who would attempt to explain the recent defeat of the Germans without going into the economic causes which made her defeat possible? Yet who would leave out of account the generalship of Marshal Foch, or the stirring notes of President Wilson that fought like vast armies on the side of the allies in breaking down the morale of the German people?

A typical illustration of the close association of historical events with economic conditions is furnished us in the great English reform bills of the nineteenth century. The necessity and the growing demand for reform in the system of parliamentary representation becomes much more significant when we consider the economic changes which had shifted the population from the south and east to the north and west and from the rural to urban localities. The Industrial Revolution had given rise to mining and industrial centers at the north and in addition to making the old system of representation all the more unequal gave rise to a new class of capitalists that demanded a place in the affairs of the government alongside that of the old landholding aristocracy. Land ceased to be the dominant force in English society in the nineteenth century. The manufacturers and finally the laborers came into possession of political rights formerly reserved for the landed aristocracy, and a new industrial order replaced the old regime. This is the meaning of the great measures of 1832, 1867, 1884-5, 1911, and 1918. The repeal of the corn laws in 1846 illustrates again that the interests of the industrial elements were coming to take precedence over those of the landholding elements in society. One need only mention the great body of social

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<sup>1</sup>See *American Historical Review*, XVIII, pp. 692-3.

and economic legislation in England in the last century to show the working of economic forces there.

The same forces may be seen at work in the history of other countries. The French Revolution comes at once to mind. One can not grasp the meaning of this great struggle or understand its significance without a knowledge of the intolerable condition of the peasantry, the unjust and unequal system of taxation, industrial restrictions, poor methods of agriculture, high prices of food, and unsound financial policies. All of these are economic factors of prime importance.

Turning now to American history, the play of economic forces is perhaps here even more clearly seen. Professor Beard and Doctor Libby have shown the economic forces back of the adoption of the Constitution; and how the Federalists were mainly men with business interests to protect and encourage and with money to loan, while their opponents were mostly among the farming and debtor classes many of whom had borrowed "cheap money" to fit themselves out in a "new clearing." It was but natural that the former should be interested in a strong government capable of protecting property, in a sound financial system, and in commercial treaties with England. It was equally natural that the latter should look with jealousy on as strong government as copying England and admire the liberty and equality of the French. Again one can not understand the importance of New Orleans in 1800 unless one remembers that it was in the days before railroads and that the Mississippi was the highway over which the produce of the settlers beyond the mountains reached the market. Or, to take another example, how can one explain the change of Daniel Webster from a strong opponent of protection in 1816 and 1820 to one of its champions in 1824 and 1828 without taking into account the economic changes brought about by the embargo and the war which had shifted the capital of his constituency from commerce to manufacturing? And certainly it was not merely to be on opposite sides that Calhoun, the great nationalist of 1816, had become the great nullifier of 1828. It was rather that

the invasion of his up-country district by the advancing cotton plantation forced him to choose between his nationalism and his position as leader of the South. The invention of the cotton gin making the growing of short staple cotton profitable had worked a revolution in the Old South by 1830, swung it away from its almost solid protectionist position of 1816, identified its interests definitely with agriculture, and made it the champion of slavery. And in the long struggle that followed it was not simply a question of the constitutional right of slavery in the territories, but which side should control the government in its own interest and who should pay the taxes. Similarly the key to the understanding of recent American history is to be found in the economic revolution that took place in this country in the decades following the Civil War. There was a revolution in transportation, agriculture and agricultural methods, and in manufacturing processes that has transformed the United States into a leading industrial state in the modern world with a foreign trade reaching into every quarter of the globe. It is this also that has so affected our traditional policy of isolation. "It is to this new economic basis of American life," says Professor Schlesinger, "that the historian must ascribe the characteristic events of recent history—the new issues, the changed character of parties, the growing conflict between capital and labor, modern social questions, indeed our very intellectual and cultural ideals and habits."<sup>1</sup>

It is impossible for lack of time to do more than mention other cases in point. Such for example as the extent to which the backwardness of the South in the ante-bellum days was due to the fact that it was starved for investment capital by tying up all its savings in lands and slaves; the influence of the free lands in the West on wages in the East and on the character and ideals of the people; the effects of our extreme individualism and laissez-faire policy in regard to our national resources, and the extent to which such

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<sup>1</sup>A. M. Schlesinger, "Problem of Teaching Recent American History," *Historical Outlook* (December, 1920). Vol. II., p. 353.

a policy has been responsible for great inequalities in the distribution of wealth and other great social and economic problems of today. The mere mention of them shows how vastly important have been the economic forces in our history.

The relation between economic factors and intellectual movements might also be pointed out by indicating the connection between cultural epochs and a social surplus. For example the relation between slavery and the intellectual advance made possible by the existence of a leisure class in ancient Greece; or the relation of the Renaissance to the rise of commerce and the growth of great centers of wealth in Italy. Or, to take a more recent example, who can estimate the influence for progress that resulted from the Industrial Revolution which Professor Shotwell estimated some years ago had brought into existence in the textile trades alone a non-human working population equalling considerably more than (50,000,000,000) fifty billion men! The wage earners no longer do this work themselves with spinning wheel and loom, but have become the overseers of a vast gang of slaves and their duty is not to do the work but to make them do it!

Turning now once more to political movements, we can see that the modern struggle for world power, is but a struggle for economic supremacy, and modern war but the climax of industrial competition. Empire once meant territorial expansion, today it means markets. Take the history of Germany for example. It was a grand plan Bismarck conceived to make Germany great: To be great she must be populous; to support a vast population Germany must establish industries in order to furnish her population a means of livelihood; if Germany was to become an industrial country she must have markets for her surplus, and a source of supply of raw materials; therefore colonies; and hence a navy to protect and extend her trade. Here her ambitions conflicted with those of her neighbors. Germany wanted a place in the sun, but the sun was now too high, and those who had come at the first hour were unwilling that those who came at the eleventh hour should receive the same recompense. If Bismarck foresaw this he did not hesitate;

blood and iron had united Germany, and blood and iron would make her great.

Such then is the process of interpreting history in the light of economic facts. And it is in this way that the study of economics may be made to supplement the study of history and to make its teaching both clearer and more interesting to the student.

On the other hand, the economist might point out at equal length the various ways in which history may be made helpful in the study of economics. This is particularly true in the teaching of elementary economics where abstract facts may be made to stand out in concrete form by the use of historical material for illustration. But history is of value to economics not merely for purposes of illustration but also for the purpose of qualifying conclusions and for pointing out the limits of economic doctrines. The doctrine of Friedrich List, for example, that all civilized states of the temperate zone pass through successive economic stages and that their attitude at any time towards protection or free trade depends on the stage of development that has been reached;<sup>1</sup> history must be relied upon to illustrate and also to test this principle. So also with Ricardo's theory of rent or Malthus's theory of population; history shows that these are subject to qualifications as to both time and place. Not only does history test economic theories and furnish illustrative material to the teacher, but it also furnishes material from which economic laws may be deducted; for example, the effects of inventions and machinery on wages, the evils of poor currency laws, the effect of an increasing supply of money on trade and industry, to mention but a few instances. So then in the teaching of economics history must be constantly appealed to.

The two subjects then are mutually helpful and their correlation in the class room will lead to more suggestive and profitable teaching by the instructor and make the class much more interesting to the student. Little is to be gained therefore in attempting to restrict the subject matter of either within too narrow limits.

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<sup>1</sup>J. N. Keynes, *Scope and Method of Economics*, pp. 298-99.

## DIVISION OF LATIN AMERICAN AFFAIRS<sup>1</sup>

HERMAN G. JAMES, ASSOCIATE EDITOR

### THE EXECUTIVE OFFICE IN THE LATIN-AMERICAN CONSTITUTIONS<sup>2</sup>

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Of the Latin-American republics four are federal—Argentina, Brazil, Mexico and Venezuela; the remaining thirteen, unitary.<sup>3</sup> The majority describe their governments to be in form “republican, democratic and representative” while Venezuela professes to be “popular, elective, federal, representative, alternative and responsible.” As in the Constitution of the United States, the three departments of government are recognized, with the bicameral system prevailing everywhere except in Costa Rica, Guatemala, Honduras, Panama and Salvador, which have unicameral legislatures.

The chief executive in each state is a president. In the Central American states, with one exception, his title is “President of the Republic”; Costa Rica calls him “Chief of the Nation”; and Mexico, “President of the United Mexican States.” He is “President of the Argentine Nation,” “President of the United States of Brazil,” and “President of the Republic of Uruguay”; elsewhere, “President of the Republic.”

The qualifications for president are similar in all the re-

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<sup>1</sup>Owing to limitations of space the News and Notes section will be omitted in this issue and postponed to the June number.

<sup>2</sup>It will be seen that the executive offices in Cuba, Haiti, and the Dominican Republic are not considered in this discussion.—Editor's note.

<sup>3</sup>Constitutions used:

Argentina, September 15, 1860. Amended to March 15, 1898.

Bolivia, October 17, 1880. Amended to November 10, 1888.

Brazil, February 24, 1891. Amended to June 26, 1893.

Chile, May 25, 1833. Amended to April 27, 1905.

publics. He must be a native-born citizen in full exercise of his political rights except in Guatemala and Nicaragua, where the president may be a native of any other republic of Central America; and in Mexico, where not only he, but his parents also, must be native-born. He must be thirty or thirty-five years of age everywhere except in Uruguay where the age of thirty-three is specified and in Guatemala where the president must be twenty-one years of age. In Nicaragua no age is specified. In only four constitutions are residence requirements laid down for the presidency: in Argentina, he must have lived six years in the republic; in Bolivia and Peru, five and ten years, respectively; and in Mexico, he must have resided in that country the entire year prior to the election. In Costa Rica, Guatemala, Mexico, Nicaragua and Salvador the president may not belong to the "ecclesiastical state"; in Paraguay he must "profess the Christian religion"; and in Argentina, both president and vice-president "must belong to the Roman Catholic Apostolic Religion." No other countries prescribe religious qualifications for the presidential office.

Six countries have property qualifications in the form of an income requirement without specifying, except in the case indicated below, the sources from which the income may be derived. Thus, he must have an income equivalent to \$2,200 in Argentina, \$160 in Bolivia, and \$500 in Chile; \$2,200 in Colombia, derived from "property or the pursuit of an honorable occupation"; \$500 in Costa Rica, or a yearly income of 200.

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Costa Rica, December 7, 1871.

Ecuador, January 12, 1897. Amended to November 5, 1887.

Guatemala, December 11, 1879.

Honduras, September 2, 1904.

Mexico, 1917.

Nicaragua, March 30, 1905.

Panama, February 13, 1904.

Paraguay, November 25, 1870.

Peru, December, 1919.

Salvador, August 13, 1886.

Uruguay, November 25, 1917.

Venezuela, April 27, 1904.

In addition to the usual requirements, the president of Costa Rica must, like an elector of that country, "know how to read and write," and "any ancestor, descendant, or brother by consanguinity or affinity" is disqualified for the presidency.<sup>1</sup> In Salvador, he must be of "well-known honesty and learning" and "in full possession of his rights of citizenship, without having lost them in the five years preceding the election."<sup>2</sup> In Mexico the constitution declares that the president "shall not have taken part, directly or indirectly, in any uprising, riot or military coup; . . . he shall not be a secretary or assistant secretary of any executive department, unless he shall have resigned from office ninety days prior to the election; . . . he shall not belong to the 'ecclesiastical state' nor be a minister of any religious creed; . . . and in the event of belonging to the army, he shall have retired from active service ninety days immediately prior to the election."<sup>3</sup>

The president is required by all the constitutions except that of Nicaragua, to take an oath of office. Six constitutions (Argentina, Chile, Colombia, Panama, Paraguay and Uruguay) mention the Deity in the oath; while Brazil, Ecuador, Guatemala, Honduras and Mexico require a form of promise similar to the oath in the Constitution of the United States; and the remaining five states merely allude to a required oath. The constitutions of Bolivia, Salvador and Venezuela state that before taking his office, the candidate shall make a solemn promise to fulfill his duties; in Peru no one may exercise public functions who has not taken his oath to comply with the constitution, and in Costa Rica, provision is made for the administration of the oath by the functionary in charge of the executive power in case the candidate can not appear on the day appointed for his inauguration. The presidents of Argentina, Chile, Paraguay and Uruguay receive the oath of office from the President of the Senate, in the presence of both houses of Congress; in

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<sup>1</sup>Constitution of Costa Rica, Art. 95, 1.

<sup>2</sup>Constitution of Salvador, Art. 83.

<sup>3</sup>Constitution of Mexico, Art. 82.

Bolivia, Brazil, Costa Rica, Ecuador and Mexico it is made "before Congress"; whereas, in Colombia, it is administered by the "President of Congress," and in Panama, by the President of the Assembly. For the other presidents, the method of administration of the oath is not definitely prescribed.

The president's term is six years in Argentina, Colombia, Guatemala, Honduras, and Nicaragua; in Chile and Peru, five; in Venezuela, seven; in all the other states, four years; and in no one of them is he eligible for re-election until a period equal to the length of his term as president has elapsed. Ecuador, Paraguay and Uruguay require double the period to intervene between terms; the constitution of Mexico says a president may never be re-elected; in Panama he is eligible to succeed himself only in case he resigns his office eighteen months prior to his election.

These constitutions uniformly agree that the chief executive and the vice-president shall receive a compensation, fixed by Congress, which shall not be increased during the term of service.<sup>1</sup>

The date of the beginning of the president's term is specified in the constitutions of some states, as, for example, Brazil, November 15; Costa Rica, May 8; Chile, September 1; Guatemala, March 15; Honduras, February 1; Mexico, December 1; Nicaragua, January 1; Panama, October 1; Salvador, March 1; Uruguay, March 1; Venezuela, May 23. The date is left to be determined by Congress in Argentina, Bolivia, Colombia, Ecuador, Paraguay, and Peru.

The method of electing the chief executive varies somewhat in these countries, although in most states it may be characterized briefly as a "direct, popular vote." The Central American Republics and Bolivia, Colombia, Ecuador, and Uruguay vote directly for president; the votes are counted by Congress and the candidate who has received an absolute majority is declared elected. If no majority has

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<sup>1</sup>Salary of president of Argentina: \$31,600 gold; Brazil, \$36,000; Chile, \$13,000; Mexico, \$25,000; Panama, \$18,000. *Bulletins of Pan-American Union*, 1918.

been obtained, Congress is empowered to elect the president. But its choice is restricted much as in the United States. For example, in Costa Rica and Brazil the choice lies between the two having the highest number of votes; in Ecuador and Nicaragua, between "citizens having equal number of votes"; in Honduras, Guatemala and Salvador, between the three highest; and in Colombia and Panama the number is not limited. In Ecuador<sup>1</sup> and Peru,<sup>2</sup> if the vote of the people is equally divided, and a tie in Congress also, the decision is made by lot; and in Brazil,<sup>3</sup> the oldest candidate is declared elected in such a case.

In only six states is there an electoral college; namely, Mexico, Peru, Paraguay, Chile, Brazil and Argentina.<sup>4</sup> In the first two, electoral returns are obtained "in the manner prescribed by law"; in the last four the process is carried on in very much the same way as in the United States. Argentina elects twice as many electors as there are senators and deputies; Brazil and Chile, three times as many; and Paraguay, four times the number. In each case the votes are counted before a joint session of the two houses of Congress and the candidate who has received a majority of votes is elected. If no candidate has received a majority of votes, Congress, in joint session, must choose the candidate in all six states from among the two having the highest number of votes.

In Venezuela<sup>5</sup> the National Congress elects the president. Within fifteen days of its meeting in the first year of each presidential period, an electoral body of fourteen members of the National Congress is chosen—one representative, either a senator or deputy, for each of the states, and one for the federal district. This electoral body then sets apart one of the three following days for the choice of a president and gives notice of the date selected, through the public press. Upon the designated date, the Commission, with

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<sup>1</sup>Constitution of Ecuador, Art. 85.

<sup>2</sup>Constitution of Peru, Art. 83.

<sup>3</sup>Constitution of Brazil, Art. 47, 2.

<sup>4</sup>*Bulletins of Pan-American Union*, 1918-19.

<sup>5</sup>Constitution of Venezuela, Arts. 70, 71, 72.

two-thirds of its members as a quorum, proceeds to elect in public session one of their number or one chosen "elsewhere" to be president. In the same session the vice-president is elected.

The matter of succession in case of failure of the president to function in office is seldom treated alike in any two states. The ten states which elect no vice-president are Costa Rica, Chile, Colombia, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Uruguay. In Chile the Minister of the Interior becomes vice-president, and after him, the senior member of the cabinet or the senior non-ecclesiastical member of the Council of State. In Honduras if the vacancy is permanent, the executive power is vested in the council of secretaries of state who order an election for president to be held within a month after the vacancy occurs. The Congress of Colombia elects annually two *designados*, a first and a second, who exercise power temporarily in case the office of president becomes vacant. Costa Rica, Nicaragua and Panama choose one from three *designados* as president pro tempore. Guatemala, also, has two *designados* who are eligible as temporary presidents in the order of their election by the Assembly; and within eight days of his succession the president pro tempore must call for an election of president to be held within six months. The new term dates from the 15th of March following.

In Mexico the method employed for filling a vacancy in the presidential office depends upon whether the vacancy occurs in the first two or the last two years of the term. In the first case, if Congress is in session, two-thirds of it choose by secret ballot and majority vote a temporary president. The same Congress issues a call for a presidential election, endeavoring to have the date set coincide with the date of the next election of members of Congress. If Congress is not in session the permanent committee acts as the electoral college. This permanent committee consists of twenty-nine members, fifteen representatives and fourteen senators appointed by their respective houses on the eve of the day of adjournment. In other respects its functions are mainly legislative. It is made the duty of the substitute

president chosen by the permanent committee to summon Congress in extra session in order that it may call a new presidential election. If the vacancy occurs in the last two years of a presidential term, there are also two courses which may be followed: Congress may choose a substitute to serve out the unexpired term; or if Congress is not in session, the permanent committee may summon Congress, whereupon it becomes the duty of that body to choose a successor. In case of temporary incapacity, an acting president must be chosen by Congress. A president chosen under such circumstances is disqualified for election for the ensuing term.

If both president and vice-president fail to perform their duties, various orders of succession prevail. The Congress of Argentina determines who shall next fill the office of president; Bolivia, with two vice-presidents, specifies the President of the Senate or the President of the Chamber of Deputies; in Brazil the order of succession is: vice-president, vice-president of the Senate, president of the Chamber of Deputies, president of the Supreme Federal Tribunal; in Ecuador: vice-president, president of the Senate, president of the Chamber of Deputies; in Salvador, after the vice-president comes one of three *designados* in the order in which they are appointed. Whenever it becomes necessary for the first vice-president of Venezuela to leave his office during the regular term, the second vice-president succeeds and calls the Senate together at once for the election of a person who shall replace him as president. In Paraguay the choice of the public functionary who is to act as president is left to Congress until a new president is elected. A similar method is followed in Peru.

Almost every constitution expressly states that the president must leave his office on the day set by the constitution or by Congress for the expiration of his term. Many constitutions, likewise provide for the removal of the president from office in case he fails properly to discharge his duties. In respect to impeachment, the constitutions of Argentina and Paraguay follow that of the United States almost exactly. In Guatemala and Honduras no grounds for impeach-

ment are stated, while in all the others, the president is "held responsible" in cases of treason and common offenses against the constitution. These are defined in Costa Rica and Ecuador more fully to include (1) interference with elections, (2) refusal to order the publication and execution of acts of Congress, (3) restricting the freedom of the courts; and, in the former country, (4) provoking an unjust war, and (5) exercising extraordinary powers without the consent of Congress.

In all these republics the executive is suspended from the exercise of his powers while his case is pending. Again, in all these states impeachment proceedings are instituted in the lower house wherever bicameral legislatures exist, and in Congress in those states having a unicameral form of government, except in Venezuela where the Supreme Court has jurisdiction over the case from the beginning, and in Ecuador where, in the absence of the president, articles of impeachment may be prepared by the Council of State. In Bolivia and Peru the senate decides whether there are grounds for accusation; in the other countries the lower house decides whether or not the accused shall be tried. In Bolivia, Costa Rica, Honduras, Nicaragua, Peru, Salvador and Venezuela the Supreme Court tries all cases of impeachment; in the others, the senate serves as the trial body, except in Brazil where the senate tries impeachment cases and the Federal Supreme Court tries cases of common offenses against the constitution.

In case of the president's conviction, the constitutions of Argentina, Mexico, Paraguay and Uruguay, like that of the United States, authorize subsequent trial and punishment before the ordinary courts. In Chile the punishment in impeachment cases is removal from office and temporary or permanent deprivation of political rights. In Panama, if the offense has been either an act in excess of his constitutional power or an act of coercion in the Assembly, the president is removed from office and disqualified from holding any other public office; but, if he is convicted of treason, he is subject to further trial under the ordinary process of

law. In the other countries trial and punishment are left to the "law."

In Chile<sup>1</sup> the impeachment process is rather more elaborately planned. The president is not only subject to impeachment during his term of office but, during the year immediately succeeding the end of his term, he may be accused of having violated the constitution or of having compromised the honor and safety of the state. Impeachment proceedings are instituted in the Chamber of Deputies where one of the eight succeeding days is set apart to hear the accused reply to the charges made against him. It is then decided whether or not the proceedings are to be continued. If the decision is in the affirmative, a committee of nine is chosen by lot from among the deputies present, who must report within five days whether or not there are sufficient grounds for impeachment. The Chamber then gives a hearing to the committees, to the instigators of the charges, to the one accused, and to all the deputies who care to take part in the debate. If it is decided to go further with the case, three managers are appointed from the Chamber who represent this body in the prosecution before the Senate. The accused is suspended from his official functions which may be resumed if the Senate does not render its decision within six months from the date on which the prosecution was begun. The Senate tries the official, and a two-thirds vote is necessary for conviction. He is then tried before the ordinary law courts and, if convicted there, is punished accordingly.

The powers of the executives of the Latin-American republics resemble closely those of the president of the United States. The powers and duties of the presidents may be grouped under five main heads: First, those relating directly or indirectly to legislation. In all these states one of the first-mentioned duties of the chief executive is to promulgate the laws of Congress, to obey them and to cause others to obey them also. Other duties commonly prescribed are to call extra sessions of Congress and to send annual mes-

<sup>1</sup>Constitution of Chile, Arts. 84-91.

sages to that body within the time set by the constitutions—which in Salvador is within eight days of meeting, and fifteen, in Nicaragua. In Brazil the president sends the annual message to the secretary of the Senate who reads it to Congress on the opening day.

All these states give to the President the veto power. He is allowed ten days in which to consider a bill, except in Chile and Venezuela which give him fifteen, in Salvador where he has eight days; and in Colombia where he is given from six to fifteen days. If he has not returned the bill signed or with his objections within the time set, it becomes a law. If Congress refuses to adopt his suggestions for amending the bill, it may in all states pass the measure by a two-thirds vote over the veto of the executive, who must publish and promulgate the law at once. In case Congress adjourns before the bill is returned, the executives of Brazil, Chile and Ecuador must publish the bills with their reasons for vetoing them in the public press. In all the republics bills once rejected may be reconsidered in a following session. The assemblies of Honduras and Salvador remain in session ten and eight days, respectively beyond the day set by law for adjournment, during which time the President must return any bills in his hands.

The second class of powers conferred upon the President are those relating to military matters. In all Latin-American republics the President is commander-in-chief of the army and navy, and he may, in every instance, with the consent of Congress, take personal command of the army in the field, in which case he ceases to retain his character as a civil official and becomes only a military chief and must resign his executive office to the successor named in the constitution. The President may grant letters of marque and reprisal. In Venezuela he may declare war, and in Honduras he may both declare war and make peace. In the other countries, Congress first authorizes the declaration of war, which is issued by the President. Special war powers are granted to him in Venezuela, namely, to ask the states to aid in national defense, to collect taxes a year in advance of the date they are due, to suspend the usual rights of

citizens, to expel foreigners who interfere with the peace, to change temporarily the location of the capital and to prosecute citizens for treason.

Presidential powers relating to foreign affairs are very similar to those in the United States. Each executive must maintain foreign relations, receive ministers and envoys from foreign countries, appoint diplomatic agents (in Argentina, Brazil, Chile, Paraguay and Uruguay, with the consent of the Senate) and conduct diplomatic negotiations. In Venezuela the President may forbid entrance to foreigners engaged in the service of any worship, or religion. The presidents of all the republics make treaties, submitting them to Congress, or to the Senate in Argentina, Brazil, Chile, Mexico, Paraguay, Uruguay, for ratification.

The power to appoint and remove the secretaries of state is also given to all the presidents; and they appoint, in six states—Argentina, Brazil, Chile, Colombia, Panama and Paraguay—the justices of the Federal Supreme Court. In Honduras the President may receive the resignations of the justices and appoint others *ad interim*. In addition, the President may exercise rights of ecclesiastical patronage in Argentina, Chile, Costa Rica, Paraguay and Peru. The President may grant or refuse, according to law of Congress, to promulgate decrees of ecclesiastical Council, bills or briefs of the Supreme Pontiff of Rome. He has the right to nominate the bishops of Paraguay from among three names presented to him by the Senate.

Certain miscellaneous powers are delegated to the President. In Argentina, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Panama and Paraguay he may grant pardons and commutations to ministers of state and other offenders within the jurisdiction of the Federal Tribunals. Important financial duties including the collection and disbursement of national funds are imposed upon the presidents of Argentina, Chile, Colombia, Costa Rica, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela. In Honduras he must "watch over" the coinage, weights and measures. In Nicaragua he may contract loans which he must report to the Assem-

bly, and he may sell or lease national property. In Colombia, Ecuador, Guatemala, Panama and Salvador, the President supervises public instruction; in Colombia, Nicaragua, Panama and Venezuela he grants letters of naturalization. The Board of Health of Panama is under his jurisdiction, and in Nicaragua and Venezuela he directs the taking of the census. In the latter country, also, he manages such public utilities as the telegraph and telephone; and here he also directs the improvement of public lands, manages salt mines and the tobacco and alcohol revenue.

Two specific restrictions upon the executive offices in all the Latin-American constitutions are: the decrees of the executive are declared invalid unless signed by the secretaries of the proper departments; and the presidents are not permitted to leave their respective countries without the consent of Congress except in Bolivia, Chile, Guatemala, Honduras, Mexico and Nicaragua. In Argentina and Paraguay the President may not even leave the capital without the permission of Congress.

In addition to the President and Vice-President, the executive branch of government in each Latin-American republic includes cabinet ministers or secretaries of state; and some states have a "Council of Government." In Argentina there are five ministers or secretaries of state, namely, of the interior, of foreign affairs, of the treasury, of justice, worship and public instruction, and of war and the navy. They receive a salary determined "by law" and they are appointed and removed by the President. Each is individually responsible for the acts signed by him and is liable to impeachment by Congress. As soon as Congress meets, each minister reports on the state of his own department. No minister may be a member of either branch of Congress; he may attend and take part in debates, but he has no vote. The cabinet of Paraguay is like that of Argentina in respect to qualifications and duties.

In Bolivia the number of secretaries is determined by statute. Each must have the same qualifications as a dep-

uty<sup>1</sup> or member of the lower house of Congress. They must sign the decrees of the President and submit to Congress reports on the business of their respective departments. They may take part in the debates of either house, but must withdraw before a vote is taken. They are appointed and removed by the President and are liable to impeachment. They may also be prosecuted by private parties before the Supreme Court.

In Brazil the number of ministers is also determined by act of Congress, and they are appointed and removed by the President. Their annual reports, addressed to the President, are distributed to all the members of Congress. Although they may appear personally before the committees of Congress, they do not appear at the regular sessions and may address Congress only in writing. They are also subject to impeachment.

The ministers of Chile (number determined "by law") must be native-born citizens and have an income of \$500. They sign the orders of the President for their respective departments, and submit to Congress annually individual reports and budgets for their departments. They attend congressional sessions, but have no vote, and they may be impeached by Congress. Chile has also a Council of State which is composed of a member of the superior courts residing in Santiago, a church dignitary, a general in the army or navy, a "head of some office" in the treasury department, an individual who has filled the position of minister of state, diplomatic agent, intendant, governor, or chief of a municipality, appointed by the President of the republic, and three councilors chosen by the Senate and three by the Chamber of Deputies. The presiding officer of the Council of State is the President of Chile, and in his absence, its own Vice-President, chosen annually from among its members. Cabinet members have no vote in the council, and if a councilor is appointed to the cabinet, he

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<sup>1</sup>Constitution of Bolivia, Art. 56. He must be a Bolivian by birth or naturalization, twenty-five years old, have lived in Bolivia at least five years; and have an income of \$80 from a profession, industry, or real property; and must not have been condemned to corporal punishment by an ordinary tribunal.

must vacate his seat in the council. The council advises the President, fills vacancies in the Supreme Court, nominates three persons for archbishoprics and other high church offices, considers questions of patronage, recommends the dismissal of cabinet ministers, and considers the prosecution of military governors and governors of departments. The President submits to the council all bills which he intends to introduce in Congress, all acts sent to him by Congress for his approval, the annual budget, and all matters in which he desires their opinion.

The cabinet ministers of Colombia may introduce bills in both houses, take part in debates, and advise the President. They are appointed and removed by him and their departments are created by Congress. Each must submit to Congress during the first fifteen days of its meeting a written report on the condition of business in his department. The Colombian Council of State has seven members including the Vice-President of Colombia who is chairman, and six members appointed by Congress. Cabinet members may be heard in the council, but they have no vote. Their term is four years, one-half of the council being renewed every two years. They act as an advisory board to the President; but their opinions are not binding except when advising the commutation of the death penalty.

The secretaries of Costa Rica may attend Congress but may not vote; they may introduce at any time such bills as are, in their opinion, necessary; and they submit to Congress annually, a report on the business of their respective departments. Their number is set by law and, when sitting together, they constitute the "Council of Government," to which the President submits for discussion the matters upon which he desires their advice. As a council, they may add to their number any other citizens whom the President of the state may wish to invite. The executive departments of Panama and Peru are similar in composition and duties to those of Costa Rica.

In Ecuador there are five secretaries of state, whose departments are determined by law. They present to Congress during the first six days of its session written reports; they attend the regular sessions of Congress where

they are allowed to vote; and they may be impeached on charges of treason or misconduct in office. The Council of State consists of the Vice-President of the republic, the secretaries of state, the attorney-general, the chief justice of the tribunal of accounts, the rector of the central university, two senators, two deputies, and two private citizens qualified to be deputies. Congress elects annually the last seven who may be re-elected. The Vice-President of Ecuador is president of the council. In the recess of Congress its powers are: to authorize the executive to make loans, to prepare articles of impeachment against the President, to fill vacancies in the Council of State, and to exercise all other power given to it by the constitution. The President refers to this body all bills sent from Congress for his approval, and before applying to Congress for authority to declare war, he consults with it.

In Guatemala, the secretaries of state, whose number and departments are determined by "law," sign all the decrees of the President, report to the assembly and take part in it. The Council of State has as its members the secretaries of state and nine councilors, five of whom are appointed by the Assembly and four by the President of the state. They serve for two years, and must be twenty-one years old and citizens. Their main duties are: to make rules for interior government of the country, and to advise the President.

In Honduras the President has from three to six secretaries who administer the departments of state. They countersign the acts of the President, report to Congress within five days of its opening session, advise with Congress, attend sessions and take part in debate, but they do not vote. There is no Council of State.

In Mexico also the secretaries are determined "by law." Each must be a Mexican citizen by birth, twenty-five years old, and in full enjoyment of his rights. As heads of departments of state they sign the decrees of the executive, report to Congress on the business of their departments and they may be called by either house to inform it whenever a bill relative to a department is under discussion.

The secretaries of State in Nicaragua may not be eccle-

siastics and may be Central Americans or naturalized Spanish Americans. Their number is determined by law. They may not be either contractors of public works in which the nation is interested, or debtors or creditors of the treasury. They attend the Assembly and may debate, but they do not vote. They confer with the Assembly when it summons them.

In Salvador there may be no more than four ministers of state, all of whom must be natives, resident in the republic, twenty-five years old, of "well-known honesty and ability." No contractor of public works is eligible. Citizens of other republics of Central America who have these qualifications and have lived for five years in Salvador may also be ministers. They sign all decrees of the executive and attend Congress when summoned, but withdraw before a vote is taken.

The State of Uruguay has a National Council of Administration<sup>1</sup> consisting of nine members chosen by direct election of the people, together with an equal number of alternates, one-third of the places being given to the chief minority party. Their term is six years, one-third being renewed every two years as is the Senate of the United States, and they are ineligible for re-election until after a lapse of two years. Their salary is provided by special law. The majority leader in the last election acts as president of the council. He has a voice and a vote in its proceedings. At least five members must be present at every session and all resolutions of the council are revokable by a vote of a majority of its members. The functions of the council include all matters of administration which have not been reserved to the President or other authorities, including the supervision of public instruction, public works, labor, industries, agriculture, charities and sanitation. The Council of Administration prepares the annual budget, renders accounts of national finances to the Assembly, advises with the President regarding measures of taxation and loans and currency. Its members may be present and take part in the sessions of Congress but they may not vote.

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<sup>1</sup>Constitution of Uruguay, Art. 82, translated in *Southwestern Political Science Quarterly*, Vol. 1, 95ff (1920).

In Venezuela the ministers, determined "by law," must be Venezuelans by birth and twenty-five years old. They are appointed and removed by the President. They sign his acts and are responsible for them. They submit every two years to Congress, an itemized report of the business of their respective departments, including the budget. They may address Congress from the floor; and are liable to impeachment for treason, violation of the constitution, embezzlement of public funds, or for common offenses.

In concluding this analysis of Latin-American constitutions, it should perhaps be pointed out that, although there is a strong general resemblance between the executive branch of our own government and that of the Central and South American countries, there is a very conspicuous absence in the latter of any indication of an attempt closely to imitate or reproduce our chief executive without regard to local conditions. Indeed, most Latin-American constitutions embody interesting and important departures from provisions relating to the executive in the Constitution of the United States which seem to reflect not only some knowledge of the unwritten law of our constitution but also no small degree of originality and practical statesmanship on the part of the framers of these constitutions.

Of these points of difference the following may be noted as perhaps the most striking: (1) the greater fullness with which the qualifications for the presidential office are set forth and the greater variety of the qualifications which are prescribed; (2) the popular election of the President in all Central American and in four South American states, and by Congress in the case of Venezuela, whereas an electoral college is created in only six of the South American states; (3) the omission of the office of Vice-President in ten states; (4) the elaborate provisions relating to the removal of the President and to the filling of vacancies in the presidency; (5) the greater explicitness with which the composition and functions of the cabinet are set forth; and, especially (6) the express permission granted to the cabinet in all states but one (Brazil) to participate in the proceedings of Congress, although without a vote everywhere except in Ecuador.

## CENTRAL AMERICAN FEDERATION

One of the most interesting among recent developments in Latin American affairs is the conclusion on January 19, 1921, of a treaty of union signed by representatives of Guatemala, El Salvador, Honduras, and Costa Rica, at San José, the capital of the last-named state. This important step, the culmination of developments noted in prior issues of the Quarterly, makes a very brief presentation of the main facts in connection with Central American Federation and the publication of the Treaty of Union especially timely.

During the period of Spanish domination, the five Central American countries, including Nicaragua which was not represented in the drafting of the present treaty, were united as provinces in the captaincy-general of Guatemala, itself lying within the vice-royalty of New Spain or Mexico. Upon the Declaration of Independence of these provinces on September 15, 1821, there was for a brief period a movement in favor of annexation with the Mexican Empire of Iturbide. With the fall of Iturbide, however, a National Constituent Assembly declared the five provinces to be a federal republic and such they remained until 1838 when the federation was dissolved after a period of almost continuous disturbance and civil war. Since that time the question of creating a new a federal state out of these so closely related countries has agitated the political atmosphere in Central America almost without interruption. At different periods the attitude of the different states has shown variations, but in general the movement for a renewal of the Union has been most strongly championed by the three middle states, El Salvador, Honduras, and Nicaragua, and most strongly resisted by Guatemala. In 1842, 1849, and 1895 the three central states mentioned above actually entered into real though extremely shortlived unions. The present treaty is

the immediate outcome of a movement started and enthusiastically supported by El Salvador for commemorating the centenary of independence by the re-establishment of a Union of all five of the Central American states. Nicaragua, however, did not participate in the treaty, though it is hoped that she will join as soon as the Federation becomes an actual fact. The text of the Treaty of Union follows:

*The Central American Federation Treaty\**

The governments of the Republics of Guatemala, El Salvador, Honduras, and Costa Rica, regarding it as an exalted patriotic duty to bring to consummation as soon as possible the reconstruction of the Federal Republic of Central America, on a basis of justice and equality which will guarantee peace, maintain harmony among the states, assure the benefits of liberty, and promote the general welfare, have agreed to the conclusion of a compact of union to this end, and for that purpose have designated as plenipotentiaries the following: On behalf of the Government of Guatemala, Messrs. Salvador Falla and Carlos Salazar; on behalf of the Government of Salvador, Messrs. Reyes Arrieta Rossi and Miguel T. Molina; on behalf of the Government of Honduras, Messrs. Alberto Uclés and Mariano Vásquez; and on behalf of the Government of Costa Rica, Messrs. Alejandro Alvarado Quirós and Cleto Gonzáles Víquez; who after having exchanged credentials and having found them in due and correct form agreed to the following stipulations:

Art. I. The Republics of Guatemala, El Salvador, Honduras, and Costa Rica are joined in a perpetual and indissoluble union and shall constitute henceforth a sovereign

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\*This translation was made from the text of the treaty as published in *La Gaceta* of New York for February 5, 1921, with the kind consent of the editor, Mr. R. Viera. The text of the treaty was sent to said publication by Mr. J. Dols Corpeño of San José, Costa Rica. The copy of the paper containing the text of the treaty was secured through the courtesy of Mr. R. C. Diaz of the Legation of Honduras in Washington, D. C.—H. G. J.

and independent nation to be designated as the Federation of Central America.

The federal state shall have the duty and the power to preserve the union, and, in accordance with the federal constitution, internal order within the states.

Art. II. The four states will meet through deputies in a National Constituent Assembly and will accept henceforth as the supreme law the Constitution adopted by said assembly in conformity with the stipulations of the present treaty.

Art. III. Each state will retain its autonomy and independence for the management and direction of its internal affairs, so far as not in conflict with the Federal Constitution, and similarly will retain all powers not intrusted by the Constitution to the Federal Government.

The constitutions of the several states will remain in force so far as they do not conflict with the provisions of the federal constitution.

Art. IV. Until the Federal Government shall have secured through diplomatic channels the modification, abrogation, or substitution of treaties in effect between the states of the Federation and foreign nations, each state shall faithfully observe and execute such treaties as bind them in their relations with any and all foreign states, to the full extent of existing obligations.

Art. V. The National Constituent Assembly in drafting the Federal Constitution shall observe the following conditions:

(a) There shall be a Federal District, governed directly by the Federal authorities. The Assembly shall designate and delimit the territory out of which this district shall be formed, and shall indicate the town or place within the same which shall constitute the political Capital of the Federation. The state or states from which the territory for the Federal District shall be taken, shall at once cede the same *gratis* to the Federation.

(b) The Government of the Federation shall be republican, popular, representative, and responsible. Sovereignty shall reside in the Nation. Public powers shall be

limited by and exercised in accordance with the Constitution. There shall be three powers of government: Executive, Legislative, and Judicial.

(c) The Executive power shall be exercised by a Federal Council, consisting of popularly elected deputies. Each state shall elect one deputy and one alternate, natural-born citizens of the state that elects them, and more than forty years of age. The term of office of the council shall be five years.

The deputies and their alternates shall reside in the Federal Capital. The alternates shall attend the meetings of the Council, but shall have no vote except when their respective principals are not present.

It shall be necessary for valid action by the Council that all the states shall be represented. Decisions of the Council shall be reached by an absolute majority of votes, save in those cases for which the Constitution may require an extraordinary majority. In case of tie the President shall have a double vote.

The Council shall choose from among the deputies a President and a Vice-President for the period of one year. The President may not be re-elected for the year immediately following.

The President of the Council shall serve as President of the Federation but he shall always act in the name of and by resolution or order of the Federal Council.

The Council shall apportion the conduct of public affairs among its members in the manner deemed convenient and may intrust the management of any department it may see fit to the alternates.

The Constitution shall prescribe the method of conducting foreign affairs and shall complete the organization of the executive power.

(d) The Legislative power shall be vested in a Senate and a Chamber of Deputies.

The Senate shall consist of three senators for each state, chosen by the Congress thereof. Senators must be more than forty years of age and citizens of one of the states.

Their term of office shall be six years and one-third shall be chosen every two years.

The Chamber of Deputies shall consist of popularly elected representatives in the ratio of one deputy for every hundred thousand inhabitants or major fraction thereof. The Constituent Assembly shall determine the number of representatives to which each state is entitled, pending the taking of a general federal census.

Senators and Deputies may be re-elected indefinitely. The quorum in each chamber shall consist of three-fourths of the total membership. No law shall be valid unless approved separately in each chamber by an absolute majority vote of the deputies and by a two-thirds vote of the senators, and unless receiving the sanction of the Executive in a manner to be prescribed by the Constitution.

(e) The Judicial power shall be exercised by a Supreme Court of Justice and such inferior courts as may be established by law.

The Senate shall select, from a list of twenty-one candidates to be presented by the Executive, seven judges to constitute the Court and three alternates to fill temporary vacancies in the same. Permanent vacancies among the judges or alternates shall be filled by a new selection. Judges shall be irremovable except by judicial sentence.

The Supreme Court shall have jurisdiction over controversies to which the Federation shall be a party; over controversies between two or more states; over conflicts between the authorities within a state or within the Federation concerning the constitutionality of their acts; and over all other matters which by the Constitution or organic law are intrusted to it.

States between which there are pending questions concerning boundaries or concerning the execution of judgments or awards rendered before the conclusion of this treaty may submit the same to arbitration. The Federal Court may take cognizance of such cases as arbiter, provided the states concerned submit them to its decision.

(f) The Federation guarantees to each inhabitant liberty of thought and of conscience. It may not legislate on

matters of religion. The principle of freedom of worship, so far as not contrary to public morals or good customs, shall be obligatory on all the states.

(g) The Federation recognizes the principle of the inviolability of human life for political offenses or connections, and guarantees the equality of all men before the law, as well as the protection owed by the state to the destitute and the proletariat.

(h) The Federation guarantees freedom of instruction. Primary instruction shall be compulsory, and so far as given in public schools free, directed and supported by the states. Institutions of secondary instruction may be founded and supported by the Federation, by States, by municipalities, and by private initiative. The Federation shall establish as soon as possible a National University, and shall give preference in their immediate establishment to departments of agriculture, industries, commerce, and the mathematical sciences.

(i) The Federation likewise guarantees in all states the protection of individual rights, as also the freedom of the vote and of succession to office.

(j) The army is an institution intended for national defense and the maintenance of public peace and order. It is in essence passive and may not deliberate. Soldiers in active service shall not enjoy the right to vote.

The army shall be exclusively under the orders of the Federal Council. The states may maintain no other force than a police to safe-guard public order. Garrisons which may be maintained by the Federation within any state, whether permanent or temporary, shall be commanded by federal officers, appointed and removable by the Council. In case, however, a rebellion occurs within a state or there is just cause for fearing a serious outbreak, the said forces shall place themselves at the disposal of the government of the state. If these forces are insufficient to put down the rebellion the government of the state shall request and the Federal Council shall send the necessary reinforcements.

The law shall determine the provisions for military service, for garrisons, and for military instruction in a man-

ner to subject them to fixed rules. The Federal Council shall have free disposition of arms and instruments of war actually existing within the states, after having provided the latter with the equipment necessary for the police forces.

The states acknowledge it to be necessary and convenient that the Federal Government reduce military forces and armaments to the smallest possible dimensions, so as to extend aid to agriculture and industries and to diminish in the interest of common progress the excessive sums expended in the maintenance of the military.

(l) The Federal Government shall administer the national revenues which shall be distinct from those of the states. The law will establish federal taxes and contributions.

(m) The states shall continue to administer their internal and external debts. The Federal Government shall be under obligation to see that this function is faithfully performed and that the requisite income is dedicated to this purpose.

Henceforth no state may contract for or incur external obligations without authorization by a law of the state and ratification by a federal law; nor may it enter into agreements which may in any manner compromise its sovereignty or independence or the integrity of its territory.

(n) The Federation may not contract for or incur foreign loans without the authorization of a law approved by a two-thirds vote of the Chamber of Deputies and a three-fourths vote of the Senate.

(o) The Constitution may fix a date after which ability to read and write may be required for voting for federal officers.

(p) The Constitution shall determine the provisions for its own amendment. But if a proposal for amendment involves the alteration of any of the fundamental principles enumerated in this treaty, there shall be absolutely requisite, in addition to the general requirements of the Constitution, the consent of the legislature of every state.

(q) The Constitution shall fix and enumerate the matters which shall be exclusively for federal legislation. The

National Constituent Assembly in drafting the Constitution shall determine the plan and principles of the same, applying the bases herein laid down and in no case contravening the same. Immediately after framing the Constitution, the Assembly shall issue the supplementary laws dealing with the liberty of the press, the protection of the individual, and the liberty of domicile, which shall be regarded as part of the Federal Constitution.

Art. VI. The National Constituent Assembly referred to in Article II of the present treaty shall consist of fifteen deputies from each state, to be elected by the Congress thereof. Deputies must be more than twenty-five years of age and citizens of one of the five Central American states. They shall enjoy immunity of persons and property from the time of their election until one month after the close of the sessions of the Assembly.

Art. VII. A quorum in the Assembly shall consist of three-fifths of the total number of deputies. Voting shall be by states. In the absence of one or more of the representatives of any state, the deputies present shall cast the vote of the entire deputation. In case of divergencies among the votes of the representatives of any state, the vote of the state shall be cast by a majority decision of the representatives. In the event of a tie vote, the decision of those voting in conformity with the majority opinion of the other states shall prevail, or in case of a tie vote as among other states, that vote shall prevail which is in accord with the majority vote of the individual deputies. The decisions of the Assembly shall be governed by a majority vote of the states.

Art. VIII. For the execution of the provisions contained herein there shall be constituted at once a Provisional Federal Council, consisting of one representative from each state. Said council shall assume the direction of the preliminary measures necessary for the organization of the Federation and its first government; more especially the convocation of the National Constituent Assembly; the promulgation of the Constitution, constituent laws, and other resolutions of the Assembly; the completion of the neces-

sary arrangements of the election by the states of representatives on the Council, of Senators and of Deputies; and surrendering its place to the Federal Council as soon as its functions shall have been performed.

Art. IX. The members of the Provisional Council shall be more than forty years of age and citizens of the states which select them. They shall enjoy immunity in persons and property from the time of their election until one month after the termination of their office. Furthermore, they shall enjoy in the state in which they exercise their functions all the privileges and dignities which by international law or custom may be accorded to the chiefs of diplomatic missions.

Art. X. The Congress of each state shall immediately after having approved this treaty, select the delegate to represent it on the Provisional Council, and shall notify through the appropriate channels the International Central American Office<sup>1</sup> of its choice. This Office in turn shall notify the governments and the elected delegates of its receipt of the ratification of three states to the end that within the time specified hereinafter the representatives may meet and begin their work.

Art. XI. The Provisional Federal Council shall meet in the City of Tegucigalpa, capital of Honduras, not later than thirty days after the third ratification of the present treaty shall have been deposited in the International Central American Office.

Art. XII. The presence of at least three delegates shall be requisite for valid action by the Provisional Council.

Art. XIII. The Provisional Council shall choose a President and a Secretary both of whom shall sign all necessary

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<sup>1</sup>This office is known as the Central American Bureau and is located in Guatemala City. Provision was first made for its establishment in the San José Conference of 1906. This provision was reaffirmed in the Washington Conference of 1907 and the Bureau was established under a special convention determining its composition and functions. It acts principally as a clearing house for statistical and other data and publishes an official quarterly magazine known as "Centro América."

documents. The Secretary shall conduct the correspondence.

Art. XIV. When the fourth ratification shall have taken place, the International Central American Office, or the Provisional Council if the latter is already in existence, shall summon the respective delegate to take his place on the Provisional Council.

Art. XV. The Congress of each state shall at the same time that it selects a representative to the Provisional Council, in accordance with Article X of the present treaty, also elect the delegates to which the state is entitled in the Constituent Assembly.

Art. XVI. Upon certification of the election of delegates to the Constituent Assembly, the Minister of Foreign Relations of the respective states shall notify the International Central American Office and shall deliver their credentials to the elected delegates.

Art. XVII. As soon as the International Central American Office shall have notified the Provisional Council of the official election of delegates by at least three states, the Provisional Council shall convoke the National Constituent Assembly to meet in the City of Tegucigalpa on a date to be fixed in the call. The latter shall be made known by telegraph to the Ministers of Foreign Relations in the several states and to the individual deputies thirty days or more in advance. The Provisional Council shall provide that the convocation of the Constituent Assembly shall take place at the latest on September 15, 1921, the centennial of the political independence of Central America.

Art. XVIII. The ratification of this treaty by three of the contracting parties shall be sufficient to make it effective and binding as between them. The state which may not ratify this treaty shall nevertheless be admitted into the Federation at any time upon request. The Federation shall admit the same without further delay upon the submission of the law approving this treaty, the Federal Constitution, and the constituent laws. In that event the Federal Council and the two legislative chambers shall be increased as herein provided.

Art. XIX. The contracting states sincerely regret that their sister republic of Nicaragua does not at once concur in joining the Federation of Central America. Should the said republic decide later on to enter the Union, the Federation shall extend every facility for its admission in the treaty to be entered into with this purpose in view. In any case the Federation shall continue to regard and treat said republic as an integral part of the Central American family, as also the state which for any reason may fail to ratify the present treaty.

Art. XX. Each state shall turn over to the Provisional Council the sum designated by it to cover the expenses of performing its functions and shall fix and pay the per diems of its respective representatives in the Constituent Assembly.

Art. XXI. The present treaty shall be submitted as soon as possible in each state to the legislative approval required by its constitution. The ratifications shall be certified at once to the International Central American Office to which a copy in the usual form shall be sent. On receiving the copy of each ratification said Office shall notify the other states and such notice be deemed as a valid exchange.

Done in San José de Costa Rica in quadruplicate, the nineteenth of January, 1921. In testimony of which the following sign the present treaty.

On behalf of the Republic of Guatemala; Salvador Falla, Carlos Salazar;

On behalf of the Republic of El Salvador; R. Arrieta Rossi, M. T. Molina;

On behalf of the Republic of Honduras; Alberto Uclés, Mariano Vásquez;

On behalf of the Republic of Costa Rica; Alejandro Alvarado Quirós, Cleto Gonzáles Víquez.

## NEWS AND NOTES

EDITED BY W. C. BINKLEY

*University of Texas*

### THE ANNUAL MEETING OF THE SOUTHWESTERN POLITICAL SCIENCE ASSOCIATION

When the second annual meeting of the Southwestern Political Science Association began its sessions at the University of Texas, Austin, Texas, on the morning of Thursday, March 24, 1921, it became evident to the group of men who had been responsible for its formation a little more than a year earlier, that the organization had developed into something more than a vision. The auditorium of the University Y. M. C. A. building was comfortably filled with an audience which showed its interest by returning to each of the following sessions, and the registration disclosed the fact that at least twenty delegates representing other institutions and activities away from Austin were present. A year previously it had been announced that the purpose of the organization was to advance the interest of political science, economics, and sociology in the six states of the Southwest—Arkansas, Louisiana, Oklahoma, Texas, New Mexico, and Arizona. The program itself served as ample evidence of the fact that this purpose was being realized. With the single exception of Arizona, every state of the group was represented, and among those participating were economists, sociologists, political scientists, historians, and public officials. The report of the secretary-treasurer at the business meeting showed the total membership of various classes to be 114, and that the Association has a substantial balance of funds with which to begin the coming fiscal year.

The session for Thursday morning was on the subject of State and Local Taxation, and was begun with Pro-

fessor H. G. James of the University of Texas presiding. An address of welcome was delivered by President R. E. Vinson, of the University of Texas. This was followed by the presidential address of Hon. A. P. Wooldridge on "Municipal Taxation." President Wooldridge then took the chair and papers were read by Professor E. T. Miller of the University of Texas, on "State Tax Reform and the Farmer," and Hon. George Vaughan, of Little Rock, Arkansas, on "The Model System of State and Local Taxation as Applicable to the States of the Southwest." A spirited discussion followed under the leadership of Hon. James A. King, State Tax Commissioner of Texas.

This was followed by two luncheon conferences at the Driskill Hotel on methods of instruction. The economics and sociology group was presided over by Professor W. M. W. Splawn, of the University of Texas, and the political science group by Professor C. G. Haines of the University of Texas.

The afternoon session on Reorganization in State Government was opened at 2 o'clock with Professor R. G. Caldwell, of Rice Institute presiding. The program consisted of papers by Professor F. F. Blachly of the University of Oklahoma, on "Recent Developments in State Budget Reform in Relation to the Southwestern States," and Professor D. Y. Thomas of the University of Arkansas, on "Administrative Reorganization in Arkansas," and an address by Professor A. N. Holcombe of Harvard University on the reorganization of state administration in general.

Members of the Association had dinner at the Country Club under the auspices of the Austin Chamber of Commerce, and this was followed by the principal address of the meeting. Professor A. N. Holcombe, of Harvard University, who had come to Austin for the double purpose of addressing the Home Economics Convention, held earlier in the week, and the Southwestern Political Science Association, gave a masterly lecture on "The States as the Agents of the Nation."

The morning session for Friday, March 25, on Land

Problems in the Southwest was presided over by Professor W. M. W. Splawn, of the University of Texas. A paper on "The Size of Farms and Ranches" was read by Professor A. B. Cox, Chief of the Division of Farm and Ranch Economics in the Agricultural and Mechanical College of Texas, and one on "Land Settlement and Resettlement," by Dr. L. C. Gray of the Office of Farm Management and Farm Economics of the United States Department of Agriculture.

On Friday afternoon the program was devoted to the subject of Mexican Affairs, with Professor H. G. James of the University of Texas presiding. Hon. Enrique Ruiz, Mexican Consul at San Antonio brought greetings from the new Mexican government. He was followed by papers prepared by Professor C. F. Coan of the University of New Mexico, on "Federalism in Mexico," Professor N. A. N. Cleven of the University of Arkansas, on "Some Social Aspects of the Mexican Constitution of Nineteen Seventeen," and Professor C. W. Hackett of the University of Texas, on "The New Regime in Mexico." The session was closed with an address by Hon. Eduardo Ruiz, Mexican Consul General at San Francisco.

On Friday evening Dr. L. C. Gray, of the United States Department of Agriculture delivered an able lecture on "An Agricultural Outlook."

Immediately following the afternoon session the visitors were taken for a ride over the city in automobiles furnished by the Austin Chamber of Commerce, and after the evening session they were entertained at a smoker at the University Faculty Club.

The closing program of the meeting on Saturday morning consisted of a joint session with the Texas Conference of Statewide Social Agencies. Professor M. S. Handman, of the University of Texas, presided, and the general topic was on Training for Social Service. A paper on "The Need for Social Service Training" was read by Professor J. C. Granbery of Southwestern University; one on "The Character of Training for Social Service" by Professor E. B. Reuter of Tulane University; and one on "The

Chicago Experiment on Social Service Training" by Mr. E. T. Hiller of the University of Texas.

The annual business meeting of the Association was held at the Driskill Hotel at 12:30 on Friday. In the absence of President Wooldridge, First Vice-President George B. Dealey, of Dallas, presided. Professor C. G. Haines, Editor of the *Quarterly* reported upon the progress and status of the official organ of the Association. His report, as well as that of the membership committee was accepted, and the election of officers for the year 1921-1922 was then taken up. Hon. George Vaughan, of Little Rock, Arkansas was chosen president; and First Vice-President George B. Dealey of Dallas, Texas, Second Vice-President F. F. Blachly of the University of Oklahoma, and Third Vice-President D. Y. Thomas of the University of Arkansas, were re-elected. Of the two elective members of the executive committee, Professor E. T. Miller was re-elected, while Professor E. B. Reuter of Tulane University was chosen to succeed Professor Cockrell, who pleaded inability to serve longer.

The executive committee, at a meeting on Friday evening, re-elected Professor C. G. Haines as editor of the *Quarterly*, and elected Dr. W. C. Binkley of the University of Texas to be secretary-treasurer. The officers selected at these two meetings, together with Ex-Presidents H. G. James and A. P. Wooldridge, constitute the Executive Council of the Association.

The members of the editorial board, consisting of Professors Blachly, Handman, and Thomas, were reappointed by the Executive Council, and Professor C. F. Coan of the University of New Mexico was added to this board.

The University of Oklahoma, Norman, Oklahoma, was selected as the meeting place of the Association for 1922, and it was decided at the annual business meeting that an active membership campaign should be carried on during the next year. Each member present pledged himself to be responsible for the addition of five new members during the year.

CONSTITUTIONAL CHANGES IN THE 1920 ELECTION<sup>1</sup>

Many suggestions have been advanced as to whether the 1920 election could be called a referendum on the question of adopting the League of Nations, and in discussing this matter the press of the country has practically overlooked the fact that the election was in reality a referendum, but from another point of view. In at least thirty-two states the voters were asked to express their opinion on amendments to their state constitution. Fairly complete information indicates that the aggregate number of amendments submitted was approximately 160, and that about two-thirds of these were ratified by the people. The adoption of one hundred constitutional amendments and the rejection of half that many at a given time is worthy of notice, especially since practically all were of importance to the localities concerned and some were of nation-wide interest.

The method of submission falls into three groups. In Nebraska and New Hampshire the revisions were proposed by constitutional conventions which had been called for the purpose. In several states amendments were submitted as a result of initiative petitions, while a majority of the changes were referred to a vote of the people by the various state legislatures.

In numbers, Nebraska led with forty-one amendments, all of which were adopted at a special election held in September. Among these were provisions relating to the organization and procedure of the legislature and of the judicial system of the state, and establishing an executive budget, a board of pardons, a board of equalization, an industrial commission, and a board of education for normal schools. Among other amendments, one allowing a verdict in civil cases on agreement of five-sixths of the jury, and one requiring the concurrence of five judges of the supreme court to declare laws unconstitutional are

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<sup>1</sup>Prepared by the Editor of News and Notes.

especially interesting. The legislature is given permission to regulate property rights of aliens, to protect public rights in the use of water power, and to establish a minimum wage and regulate conditions of employment of women and children. Legislative discretion is restricted, however, in other provisions prohibiting consolidation of competing public utility corporations without the consent of the railway commission and forbidding state aid for sectarian institutions. A new plan for amending the constitution was provided, by which an amendment submitted by the legislature is adopted by a majority voting on the question if the affirmative vote equals 35 per cent of the total vote cast in the election.

New Hampshire presents an interesting contrast to Nebraska, in that all of the amendments submitted by the convention were defeated. This was due to the provision in the state constitution that a two-thirds majority is necessary for ratification. Six of the seven proposals received a simple majority, but not the required two-thirds. The most important of these were provisions giving the governor the power to veto items in appropriation bills, permitting the levying of an income tax, and decreasing the membership of the lower house of the legislature from 405 to not less than 300 nor more than 325, and changing the basis of apportionment from population to active voters.

Proposals in other states affecting the organization of the government were relatively few. California rejected a proposal to tighten up initiative procedure, as well as one to change the method of calling a constitutional convention. Arkansas and Missouri refused to enlarge their supreme courts, while Idaho provided for an increase in the membership of this body from three to five, and gave it jurisdiction over appeals from the public utilities commission. Montana defeated a plan providing for a state board of administration to handle financial questions. Oregon adopted an amendment changing the term of county officials from two to four years and rejected one

providing for bifurcated legislative sessions. South Dakota rejected a proposal for a state board of control.

Measures providing for increases in the salaries of state officials were universally defeated. California refused to increase judges' salaries; Maryland, Missouri, Oklahoma, and Oregon, those of members of the legislature, and Colorado, Michigan, South Dakota, Washington, and Arizona, those of state officers in general. The last state even refused to establish a minimum teachers' salary of \$1,200.

The voters of Maine, New York, South Dakota, and Washington ratified amendments authorizing bond issues to pay bonuses to soldiers. Several other states were able to accomplish this by means of initiative or referendum laws, and in no case was such a proposal defeated. Highway improvements projects did not fare so well, being defeated in Arizona, Florida, Washington, and Wyoming. Five states voted bonds for this purpose without resorting to constitutional amendments, while others provided for such work by changing their constitutions. Of these California voted to create a state highway finance board with power to increase the interest rate and regulate the disposal of unsold bonds in the state treasury. Minnesota authorized the creation of a trunk highway system, and provided a special motor vehicle tax to meet the necessary bond issue. Colorado, Kansas, and Virginia ratified amendments authorizing the expenditure of public money and the incurring of bonded indebtedness for highway improvements.

Other proposals of a financial nature were numerous, and their fate varied. Most of these dealt with the question of taxation, and on the whole proved rather unpopular. In addition to rejecting a proposed state income tax, New Hampshire defeated an inheritance tax amendment, while income tax provisions were also voted down in Maine and Minnesota. North Carolina, on the other hand, authorized such a tax and coupled with it a plan for reducing per capita and property taxes. Wyoming refused to adopt an amendment authorizing a special tax on live stock. Single tax

measures were rejected in California and Oregon, while in the former a proposal requiring the legislature to levy a poll tax of not less than four dollars upon aliens was adopted by a large majority. Colorado gave the legislature authority to levy an additional millage tax for the support and improvement of educational institutions, and Louisiana provided such a tax for the support of higher education. A similar proposal applying especially to the state university was defeated in California by the narrow margin of 4500 votes out of a total of 765,000 cast on the question. Oklahoma rejected a tax of the same nature applying to public schools. Virginia and Texas voted favorably on measures allowing an increase of local taxes for school purposes, while South Dakota refused to adopt a similar proposal. South Carolina found it necessary to ratify over twenty amendments allowing an increase in municipal tax levies for various purposes or in the amount of municipal indebtedness, and Louisiana had to solve the problem of school taxes for the city of New Orleans, as well as authorize a special tax levy in that city to meet the demands of reorganizing the police force and fire department. Arizona refused to provide for a change in the method of selecting members of the state tax commission, and Montana rejected a proposal to establish such a commission. Kansas and Minnesota failed to adopt general measures providing for the classification of property for taxing purposes, and for reorganization of their financial system.

On the side of apportioning and expending state funds there were also several questions to be decided, in addition to those already mentioned. New York adopted a general amendment providing for better management and retirement of the state debt. Pennsylvania authorized a general increase in the debt limitations of the various subdivisions of the state, while in Utah a proposal to raise the state debt limitation was defeated by a 2 to 1 vote. Kansas voted favorably on a system of state aid in the purchase of farms, and South Dakota approved a similar plan for the building of urban homes. North Dakota limited the investment of school funds to bonds issued within the state, while Utah

and Montana changed their method of apportioning these funds.

The question of suffrage and elections received its share of attention, several states voting to strike the word "male" from their constitutions in order to conform with the federal suffrage amendment. Oregon rejected a provision for compulsory voting, and an absentee voting plan met the same fate in California. North Dakota reduced the length of its residence requirements for voters, as did North Carolina; and the latter also abolished the poll tax requirement. Louisiana made registration an additional requirement for voting in primary elections, conventions or political assemblies held for the purpose of nominating party candidates. Maine gave the legislature power to authorize towns to have more than one voting place for state and national elections.

Plans for municipal reform also received consideration in a few states, and the results show the usual lack of uniformity. Virginia adopted an amendment abolishing the classification of cities for purposes of establishing special forms of government, as well as one permitting non-residents to hold positions under municipal governments requiring special training or experience. Utah rejected a proposal permitting cities and towns to frame their own charters. The South Carolina amendments have been mentioned above, and a kindred proposal in Michigan providing for the condemning of adjoining property for public purposes by municipalities was defeated.

Most of the remaining provisions were of a more limited nature, and, because of their local application, were usually restricted to a single state. As a rule they are of interest as indicators of the kind of special material which is included in our state constitutions at the present time. Perhaps the most extreme example is to be found in North Dakota, where the voters were asked to pass upon a constitutional amendment in order to change the name of the state reform school to state training school. Proposals to prohibit compulsory vaccination were defeated in California and Oregon, and Oklahoma refused to ratify a proposed

state insurance plan. Michigan gave the legislature power to regulate hours and conditions of employment, while Idaho rejected a proposition enabling the state to control water power. Colorado denied permission to construct a tunnel through the continental divide. Oregon refused to fix 4 per cent as the legal interest rate in the state. Pennsylvania adopted an amendment relating to the power of the legislature to provide for banks and trust companies. Virginia provided for an extension of the compulsory school age, and extended to women the right to serve as school trustees.

It is rather difficult to base any definite conclusion upon these results, other than to say that they show little progress in the direction of excluding from our state constitutions an enormous amount of material which does not belong there. The very number of the proposals is indicative of this fact, and in this connection, the adoption of two-thirds of the amendments submitted might be taken as indicating a change in the attitude of the electorate. Such a conclusion is impossible, however, when a more careful examination discloses the fact that of those measures which were adopted, three-fifths were in the two states of Nebraska and South Carolina. Leaving out these states, the relative standing changes to about sixty rejections as compared with about forty approvals. Combine with this the fact that in most cases the vote on the amendments was far smaller than that cast for state officials, and it becomes obvious that the average voter is either ignoring such proposals, or else is still inclined to adhere to existing conditions rather than risk a change. Few of the measures were vicious in character although many were perhaps useless, but several which would have accomplished much needed changes were rejected along with the less desirable ones. In considering the general results the statement of the *New York Times* that "This year's record can hardly serve to increase confidence in the initiative and referendum as instruments of political regeneration," can be quoted with safety.

## NOTES FROM ARKANSAS

PREPARED BY D. Y. THOMAS

*University of Arkansas*

The new governor of Arkansas is inaugurated about three days after the new legislature meets. The constitution requires the outgoing governor to send in a message on the condition of the state and making recommendations. Usually it receives scant consideration.

This year the message of the outgoing governor, C. H. Brough, was lengthy, about 34,000 words. In it he gave a history of his administration, including a defense of some things then under fire, particularly the corporations commission, the inheritance tax collector, and the county boards of assessment. An impartial reading reveals several things worth while, for example, the putting of the state on a cash basis and keeping it there, provision for a boys' industrial school (out of the old reform school), a girls' industrial school, a state farm for women, the putting of the state educational institutions on a special tax, and the increase of the inheritance tax collections through the creation of the office of inheritance tax collector.

Among the recommendations of the outgoing governor were, that provisions be made for an executive budget, compulsory auditing of county finances, giving the attorney general authority in certain cases to institute criminal prosecutions in the lower courts, the retention of the corporations commission, a negro reform school, increase of revenue for the public schools and for the state institutions, a severance tax, and giving women the right to hold office.

The inaugural address of Governor T. C. McRae was hardly one-fourth as long as the message of Governor Brough. He asked the legislature to carry out the pledges of the Democratic platform for the abolition of useless offices, particularly the corporations commission, the board of control, the penitentiary commission, the inheritance tax collector, and the highway commission "as now constituted," the institution of honorary boards in place of those abol-

ished, the reduction of the tax commission to one member and giving to him the collection of the inheritance taxes. He also recommended an executive budget, giving to women the right to hold office, a gasoline tax, and better educational facilities.

The legislature of 1919 was characterized by an enormous amount of road legislation; that of 1921 by a large amount of repeal legislation—of the special road laws. With all that, however, enough was left to make possible a good deal of disconnected road building.

The total number of bills introduced was 1261, of which 624 were in the senate, 637 in the house. As usual the vast majority were local or special in character, though the high maximum of 1919 for this kind of legislation was not reached. Few laws of a general nature were enacted, some of these of little consequence. Two amendments having already been submitted by petition, one resubmitting the new initiative and referendum and another removing the limit on taxation for school purposes, only one was left for the legislature. Several proposals and two different resolutions, both originating in the house, were adopted providing for the subjection of personal property to taxation for the building and upkeep of roads. Possibly the governor will select the one to be submitted, though it is not clear that he has any explicit authority to do so.

The governor's program as outlined in the Democratic platform was carried out only in part. The salaried penitentiary commission was abolished and an honorary commission of five, one of whom is a woman, was substituted. Instead of abolishing the corporations commission outright a compromise was effected, restoring the old elective railroad commission with slightly enlarged powers, but leaving the regulation of local utilities to local authorities. The privilege of surrendering charters for indeterminable permits was also repealed. The senate refused to abolish the tax commission and the office of inheritance tax collector and passed appropriation bills for their support, which the house accepted. The governor asked for a reorganization of the highway department, but this was refused by the senate.

The substitution of an honorary board for the present salaried board of control was refused by the senate, also the abolition of the state charities board, but the house refused to make any appropriation for the former; also for the state mine inspector and the oil inspector.

Among the bills passed the following may be mentioned:  
Permitting women to hold office.

Excusing women from compulsory jury service.

Changing date of state election from November to October so as not to coincide with the national election.

Providing relief and retirement funds for firemen and policemen in Little Rock through a special tax.

Establishing municipal courts in certain cities of the first class to take the place of police courts and justice of the peace courts.

Making pipe lines common carriers.

Withdrawing state lands from sale for a period of five years and providing for leasing. This was caused by the discovery of oil and gas in the state.

Legalizing the sale of cigarettes (now forbidden) and imposing a license fee of \$20.00 on retailers and \$50.00 on wholesalers.

Increasing the special tax for the support of the University from four-ninths of a mill to one mill.

Authorizing the borrowing of \$350,000 for building purposes at the University, the notes to be paid off in twenty years out of the proceeds of the millage tax.

Fixing a uniform fiscal year closing June 30, for all departments of state government and for state institutions.

An important revenue bill, that of Senator Vaughan revising the entire system of taxation, passed the senate and probably would have passed the house, had the session lasted a few days longer.

The bill for a severance tax of two per cent on oil and gas met a similar fate.

The results seem to have justified the establishment (1913) of a budget committee, consisting of a joint committee of the two houses and of the auditorial bureau (1917), though the conditions are still far from ideal. The comptroller of

the bureau brings together the requests of the various departments of government and estimates the probable revenue. He also sat with the budget committee many times during the recent session. Many, but not all, of the appropriation bills of the recent legislature originated with the budget committee. In one day, just ten days before the close of the session, ten such bills were reported to the senate by the committee. Next day twenty-four appropriation bills were passed, two of which had not originated with the committee. Four of the bills were defeated in the house, which had already voted to abolish the offices named in the bills. Appropriations totaling \$138,000 were passed without being reported by the committee. A few days before the close of the session, when it appeared that all the appropriation bills were in, the auditorial bureau estimated that the appropriations would fall within the revenue by \$40,000, something unheard of for many years previous to 1919.

#### NOTES FROM NEW MEXICO

PREPARED BY CHARLES F. COAN

*University of New Mexico*

The Fifth State Legislature has not completed its work at the time this is being written, but has made some changes in the organization of the government. Thus far it does not seem inclined to accept the recommendations of the Special Revenue Commission.

**TAXATION.** The Special Revenue Commission appointed by an act of the Special Session of the Fourth Legislature, made its report November 20, 1920. A minority report was submitted by John Joerns, the secretary of the State Tax Commission. The "Hearings" held by the Special Revenue Commission, August 16-20, 1920, have been published. The State Tax Commission has also made its report for the years 1918-1920 in which it submits a detailed account of the value of property in the State.

The Special Revenue Commission has recommended many changes in the government of the State. Some of these are

embodied in House Bill No. 100 (drawn by Professor Chamberlain), which codifies and revises the taxation and revenue laws. It provides for the assessment of all property including mines, at full value on an ad valorem basis. (The present laws are not clear on the point of full value assessment, and mines are assessed on the basis of production). The bill includes a two per cent income tax at a flat rate, restricted to individuals, and accompanied by an exemption of intangible personal property from the general property tax.

The present method of assessing property is deemed inefficient by the Special Revenue Commission and the State Tax Commission. At present certain specified properties are assessed by the State Tax Commission consisting of one full time member and two part time members, while the general property tax is assessed by the elected county assessors. House Bill No. 100 provides for a Tax Commission of three paid members, appointed by the Governor, who shall have complete control over the assessment of all property. This would be accomplished through five supervisors of assessment, one for each of the five districts into which the State would be divided for purpose of taxation, and through the county assessors. The county assessors and the supervisors of districts would be appointed by the State Tax Commission. The Bill provides that property must be assessed only after a personal inspection by the assessor.

Many printed pages have been devoted to this subject of taxation during the past year. It remains to be seen whether any constructive results will accrue from the discussion. The State Tax Commissioner has stated that much of the property held by small holders is either not assessed at all or under-assessed, and Professor Haig commenting on the present mine tax law writes, "If the people in general fully understood the present mine law it is scarcely conceivable that it would still be on the statute books."

**EDUCATION.** The Special Revenue Commission in its lengthy report devoted a chapter to the subject of "State Institutions and Land Office." They recommended the creation of a board of regents to have control of all state educational institutions and state lands; the consolidation of the

three normal schools into one or two as seemed advisable; and the merging of the three institutions in the Rio Grande Valley, the university, the agricultural college, and the school of mines, into one institution.

Professor Bagley in his report, made in February, 1921, to the Special Revenue Commission, and concurred in by Professors Cubberley and Strayer, emphasized the importance of training teachers as the basic function of institutions above secondary grade; and the failure in the higher schools of New Mexico to meet this need. The figures presented showed that there were 510 students of college grade in the seven state supported institutions, 200 of whom were from outside the State. Professor Bagley recommended the discontinuance of state support for the Military Institute at Roswell; the Spanish American Normal School at El Rito; the Normal School at Silver City; and the School of Mines at Socorro. The recommendations made concerning the three remaining institutions—the State University at Albuquerque, the Agricultural College near Las Cruces, and the Normal University at Las Vegas, were, first the consolidation of the three institutions preferably at Albuquerque; and second, the establishment of three colleges each with special characteristics utilizing the plants at Albuquerque, Las Vegas, and State College. This report strongly recommended that there be but one board of control under any plan for reorganization. As these institutions were created by the State Constitution, a constitutional amendment will be required to make any change. No action has as yet been taken by the legislature.

**HEALTH.** The provision for the continuation of the work begun by Dr. Waller as State Commissioner of Health is found in House Bill No. 80. During the past two years the salary of the commissioner has been paid by the United States Public Health Service. The present bill provides for a salary of \$4,000 for the commissioner to be appointed by the State Board of Health. This bill gives the commissioner wide powers in matters of health throughout the State—it also provides for the appointment of county health officers

by the County Commissioners upon the approval of the State Commissioner of Health for the State.

**OTHER MEASURES.** In the class of constructive legislation passed is the act creating the State Game Commission, which is an unpaid board whose officer will be the State Game and Fish Warden appointed by the Governor. The act gives wide powers to this commission in protecting the fish and game of the State. However, this commission will not be able to take over the work of the United States Biological Survey in predatory animal control because it will not have the funds. It has been proposed to cut off the state appropriation for assistance to the Biological Survey.

Several acts have been passed for the relief of the livestock interests. These provide for change in plan of sale of state leased land, in price paid for lands leased, in the manner of purchase of State land, and for an extension of time until October 1922, for payments due the State. The wisdom of these acts has been questioned by some.

The Primary Bill introduced by the majority provides for county nomination primaries for county officers and delegates to county conventions limiting the primaries to declared members of a given party, but the primary does not extend to state and district, officers and conventions. The minority has introduced a state wide primary bill. It has been estimated that the increase in cost of annual elections under the county primary plan will be \$60,000.

Some state offices have been discontinued. The office of legal adviser to the Governor has been abolished. The same fate was met by the New Mexico Mounted Police, a state police organization primarily for the prevention of livestock thefts. The office of county road superintendent has also been discontinued.

The process of making new counties has not yet been completed in this state. Socorro county had some 15,000 square miles until Catron County was created out of the western part of its area by the present legislature.

The first "Blue Sky Bill" has passed the Senate.

## NOTES FROM TEXAS

PREPARED BY W. C. BINKLEY

In Texas the legislature meets a week before the inauguration of the new governor, and during this period practically nothing is accomplished aside from receiving a message from the outgoing governor. Governor Hobby's message emphasized the fact that much constructive work had been done during his term of office.

A special feature of the inauguration of Governor Pat M. Neff on January 18th was the presence of a delegation from the new government of Mexico, consisting of General Francisco Perez Trevino, the Mexican Secretary of State, together with the governors of Chihuahua, Coahuila, Nuevo Leon, and Tamaulipas.

Governor Neff's first message, submitted on January 20, contained no constructive suggestions aside from a request that the promises of the Democratic party platform be carried out. A few days later, however, he proposed a general program of consolidation and elimination of various departments in order to cut down the expense of handling the state's business. Among the most important suggestions were those for the complete abolition of the industrial welfare commission; the transfer of the work of the state tax board and of the tax commissioner to the railroad commission and the comptroller; the transfer of the work of the mining board and mine inspector to the Department of Labor; the consolidation of the State Health Department and the Food and Drug Department; the transfer of various phases of the work of the Department of Agriculture to the technical schools of the state; and the assumption by the Department of Agriculture of the functions of the Warehouse and Marketing Department. He had already recommended the abolition of the board of pardons, and this was soon followed by a request that the entire law providing for the suspended sentence be repealed; that the governor be given power to remove local officers who are not efficient in up-

holding the law; that the prohibition enforcement act be amended so that conviction could be secured upon the testimony of the purchaser alone; and that prosecuting attorneys be prevented from permitting a person charged with a number of violations to plead guilty and serve all his sentences concurrently. Next came a recommendation that every department and institution using the state's money should be sheared of its discretionary power in regard to the number of its employees and the disbursing of money.

Turning to the work of the legislature which adjourned on March 12,<sup>1</sup> it is found that its members were not in complete sympathy with the governor's program of reorganization. Of slightly over one thousand bills introduced during the session less than two hundred were passed, and fully half of these were of a local character. Virtually the only one of the governor's proposals to meet the approval of the legislators was the suggestion that the Food and Drugs Department be consolidated with the Health Department, although the suspended sentence law was partially repealed in that automobile theft and criminal assault defendants were excluded from the benefits of the statute.

Among the few measures worthy of general notice are the following:

Providing that only American citizens may vote at elections.

Providing for absentee voting by mail.

Extending the term of the Commission of Appeals for two years from the date of its expiration in June, 1921.

Establishing stringent sanitary regulations for hotels, eating houses, and bakeries, and fixing the size of loaves of bread in multiples of sixteen ounces.

Restricting Japanese from owning land in Texas, and requiring the registration of ownership of lands in the state by aliens.

Repealing the minimum wage law and adopting a new

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<sup>1</sup>Up to the time of going to press the House Journals for the last two days' sessions have not been printed, and it is therefore impossible to give an absolutely accurate account of the work of the legislature.

measure prescribing zones for different minimum wages depending on standards of living, and making exceptions in cases of localities of smaller population.

Granting cities of less than 5,000 inhabitants the right to establish the commission form of government.

Authorizing incorporated cities to avail themselves of the services of county tax collectors and assessors.

Providing for the organization of co-operative marketing associations.

Practically nothing was done in the direction of bringing additional revenue to the state's treasury, while on the other hand many new appropriations were made. Most of these were essential, but the financial condition of the government makes an increase of income equally necessary. Among the more important appropriations passed were:

\$3,000,000 to supplant the available school fund and aid in keeping the per capita school apportionment to \$14.50.

\$4,000,000 for the rural school aid for the next two fiscal years.

\$1,350,000 to buy 135 acres of land adjacent to the present University of Texas campus for the use of the University.

\$1,500,000 for establishing a tuberculosis sanitarium.

A minor appropriation to meet the state's obligation under the Smith-Hughes vocational training act.

Provision was made for the establishment of the West Texas Agricultural and Mechanical College, and an appropriation was made for this purpose.

Emergency appropriations amounting to approximately \$1,000,000 were passed, but the governor vetoed a majority of such appropriations.

The legislature adjourned without making any appropriation whatsoever for the maintenance of the state government and state institutions for the next two years.

Owing to the fact that the governor has until April 1, to veto measures passed during the closing days of the session, it is impossible to say what measures will become a part of Texas law.

- The taxation proposals introduced by Representative John

T. Smith<sup>1</sup> did not prove acceptable to the legislature, and nothing was accomplished in the direction of taxation reform.

A proposal to move the University of Texas to the Brackenridge tract consisting of five hundred acres of land lying along the Colorado River just above Austin was defeated.

Plans for redistricting the state for purposes of representation in Congress, and in both houses of the state legislature met the same fate. Of special interest among the latter was a suggestion that the lower house of the state legislature be reduced to sixty-two members, two to be chosen from each of the thirty-one senatorial districts of the state.

A resolution providing for the meeting of a state constitutional convention was defeated in the lower house.

On the day of adjournment, Governor Neff sent a message to the legislature informing the members that their failure to make the necessary appropriations for carrying on the government forced the calling of a special session. This session, he said, would be called late in the summer of this year. In the message he stated that he would again submit to them his plans for law enforcement, and his program of efficiency and economy in the administration of the government.

#### PERSONAL NOTES

Professor C. L. Stewart resigned January 1 from the department of economics and sociology, University of Arkansas, to accept a position with the Department of Agriculture, at Washington, D. C. He will assist in investigating the system of tenant farming in the South. His place in the University was taken for the rest of the year by Mr. J. M. Gillenan.

Mr. E. T. Hiller, formerly of the University of Kansas, and more recently connected with social service work in Houston, Texas, has been appointed an instructor in sociol-

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<sup>1</sup>See *Southwestern Political Science Quarterly*, Vol. I. No. 3, pp. 283-294.

ogy for the spring term, at the University of Texas.

In the city primary election of March 21, Hon. A. P. Woolbridge, President of the Southwestern Political Science Association during the past year, and formerly Mayor of Austin, received a majority of 34 votes over Mayor W. D. Yett in the race for the office of Mayor. Both men are still in the contest which will be decided in the regular election, April 4.

Among the teaching staff of the 1921 Summer Session of the University of Texas, are the names of Professor Grove S. Dow, of Baylor University, in economics and sociology, and Professor F. F. Blachly, of the University of Oklahoma, in government, for the first term, and of Professor J. P. Comer of Southern Methodist University in government for the second term.



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